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Wednesday
May 23, 1984

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Federal Energy Regulatory Commission

Agricultural Commodities
Environmental Protection Agency

Air Pollution Control
Environmental Protection Agency

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Maritime Carriers
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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.

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Presidential Documents

Title 3—

The President

Proclamation 5195 of May 20, 1984

Return and Final Interment of Unknown American Killed in Vietnam

By the President of the United States of America

A Proclamation

On this Memorial Day, the remains of an unknown American who gave his life in service overseas in Vietnam will be interred in Arlington National Cemetery.

The casket of this unknown American will arrive in the City of Washington on May 25, 1984, to lie in state in the rotunda of the United States Capitol until final interment.

The individual who finds his last resting place at Arlington on this occasion will be nameless to the entire world. But to the generations of Americans who left their homes and families to fight and defend the freedom and independence of our Nation, he will be known well by his embodiment of that most noble of all sentiments—patriotism.

There will be families from across the land who will come to view this place. To them it will mean that their son, husband, or father rests before them. And, in spirit, it will be true. For they, as we, know him well as one who, as Lincoln said at Gettysburg, gave his "last full measure of devotion."

As we work to preserve that for which he struggled, let us equally dedicate ourselves to the peace we yearn for in our hearts.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby direct that the flag of the United States be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal government in the District of Columbia and throughout the United States and its Territories and possessions, when customarily flown, on May 25, May 26, May 27, and May 28, 1984. I also direct that the flag be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

As a sign of our national gratitude and concern, I also urge my fellow citizens to display our country's flag at half-staff at their homes and other appropriate places during this period.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-13971
Filed 5-21-84; 2:59 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5196 of May 20, 1984

National Arts With the Handicapped Week, 1984

By the President of the United States of America

A Proclamation

Art flows from and nourishes the human spirit. Through art, we learn to understand ourselves and our potential. For disabled people, the creative experience—whether as artists, audiences, educators, or students—is an essential part of leading a full and productive life. It is an important means for the disabled to be integrated into the mainstream of educational and cultural programs as well.

Therefore, it is critical that our cultural institutions, educators, and communities strive to assure that disabled people can participate fully in the arts. The National Committee Arts with the Handicapped, an educational affiliate of the John F. Kennedy Center for the Performing Arts, is dedicated to extending opportunities for such participation. It conducts education programs in all fifty States, the District of Columbia, and Puerto Rico. Funded by both the public and private sectors, the Committee is celebrating its tenth anniversary this year. To mark this achievement, the Committee is sponsoring a very special arts festival during the week of May 20, 1984, in Washington, District of Columbia.

In recognition of the importance of the arts in enriching the lives of disabled persons and in celebration of the work of the National Committee Arts with the Handicapped, the Congress, by Senate Joint Resolution 220, has designated the week of May 20, 1984, as "National Arts with the Handicapped Week" and authorized and requested the President to issue an appropriate proclamation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of May 20, 1984, through May 26, 1984, as National Arts with the Handicapped Week. I encourage the people of the United States to observe the week with appropriate ceremonies, programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-13972
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

[Florida Avocado Reg. 29; Avocado Import Reg. 35]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes minimum grade and maturity requirements for shipments of fresh avocados grown in south Florida, and for avocados imported into the United States. Such action is necessary to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: § 915.329 becomes effective May 23, 1984 and § 944.27 becomes effective May 28, 1984. Comments due by June 22, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation (7 CFR Part 944) is issued under section 8e (7 U.S.C. 608e–1) of the Act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, established under this marketing order.

Both regulations establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color is also authorized as a method of determining maturity for certain varieties which turn red or purple when mature. The grade and maturity requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity so they provide consumer satisfaction essential for the successful marketing of the crop. These requirements are also designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality in the interest of producers and consumers.

Section 8e of the Act requires that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements.

The Avocado Administrative Committee estimates 1984–85 season fresh Florida avocado shipments at 1,150,000 bushels (55 pounds), 11 percent more than the estimated 1,031,582 bushels shipped fresh in 1983–84, but 13 percent less than the 1,325,310 bushels shipped fresh in 1982–83. Florida avocados compete primarily with avocados produced in California, which has projected shipments of 7,800,000 bushel equivalents (50 pounds) for the 1983–84 season ending October 31, 1984. Avocados are imported into the United States in relatively small amounts, mostly from the Dominican Republic. The 1984–85 season Florida avocado crop is expected to begin with light shipments of early varieties on or about May 21, with substantial shipments beginning in late June or early July.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this interim rule until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared policy of the Act. Shipments of Florida avocados are expected to begin on or about the effective date specified therefor. Interested persons were given an opportunity to submit information and views on the grade and maturity requirements for 1984–85 season Florida avocados at an open meeting at which the committee without opposition recommended implementation of the requirements for Florida avocados specified in this rule. Florida avocado handlers have been apprised of the provisions and effective date of the Florida avocado regulation. The avocado import requirements are mandatory under section 8e of the Act, and the required 3 days notice is provided. The interim rule provides a 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need to be received within 30 days, so that any necessary changes can be made promptly in the grade and maturity requirements. All comments received will be considered prior to finalization of this interim rule. It is found that this interim rule will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

7 CFR Part 944

Food Grades and Standards, Imports, Avocados.

Therefore, new §§ 915.329 and 944.27 are added to read as follows: (§§ 915.329 and 944.27 expire April 30, 1985, and will not be published in the annual Code of Federal Regulations).

PART 915—[AMENDED]

1. Section 915 is added to read as follows:

§ 915.329 Florida Avocado Regulation 29.

(a) During the period May 23, 1984 through April 30, 1985, no handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 3, except for avocados handled within the production area in containers other than those authorized in § 915.305.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 1: *Provided,* That avocados may not be handled prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 1

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Kosel	05-21-84	06-03-84	16	
	06-04-84	06-17-84	13	
Arue	05-21-84	05-03-84	16	
	06-04-84	07-08-84	14	3 9/16
Fuchs	06-11-84	06-24-84	14	3 9/16
	06-25-84	07-08-84	12	3
Dr. Dupuis No. 2.	06-04-84	06-17-84	16	3 9/16
	06-18-84	07-08-84	14	3 1/16
	07-09-84	07-22-84	12	3 9/16
K-5	06-18-84	07-01-84	18	3 1/16
	07-02-84	07-15-84	14	3 5/16
West Indian seedling.[1]	06-25-84	07-22-84	18	
	07-23-84	08-26-84	16	
	08-27-84	09-23-84	14	
Pollock	06-25-84	07-08-84	18	3 13/16
	07-09-84	07-22-84	16	3 5/16
	07-23-84	08-05-84	14	3 1/16

TABLE 1—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Simmonds	06-25-84	07-08-84	16	3 9/16
	07-09-84	07-22-84	14	3 7/16
	07-23-84	08-05-84	12	3 1/16
Hardee	06-18-84	06-24-84	18	3 9/16
	06-25-84	07-01-84	16	3 9/16
	07-02-84	07-22-84	14	2 15/16
Nadir	06-25-84	07-01-84	14	3 9/16
	07-02-84	07-08-84	12	3 1/16
	07-09-84	07-22-84	10	2 15/16
Donnie	07-02-84	07-15-84	16	3 5/16
	07-16-84	08-12-84	14	3 1/16
Dawn	07-09-84	07-22-84	12	3 1/16
	07-23-84	08-05-84	10	3
Ruehle	07-09-84	07-15-84	18	3 1 1/16
	07-16-84	07-22-84	16	3 9/16
	07-23-84	08-05-84	14	3 1/16
	08-06-84	08-12-84	12	3 1/16
	08-13-84	08-19-84	10	3 1/16
Peterson	07-16-84	07-22-84	14	3 9/16
	07-23-84	07-29-84	12	3 5/16
	07-30-84	08-12-84	10	3 1/16
Biondo	07-16-84	08-19-84	13	
Bernecker	07-23-84	08-19-84	18	3 5/16
232	07-23-84	08-05-84	14	
	08-06-84	08-19-84	12	
Pinelli	07-23-84	08-05-84	18	3 13/16
	08-06-84	08-19-84	16	3 15/16
Trapp	07-23-84	08-05-84	14	3 15/16
	08-06-84	08-19-84	12	3 7/16
Miguel (P)	07-23-84	08-05-84	22	3 13/16
	08-06-84	08-19-84	20	3 15/16
	08-20-84	09-02-84	18	3 15/16
Nesbitt	07-23-84	08-05-84	22	3 13/16
	08-06-84	08-12-84	16	3 5/16
	08-13-84	08-26-84	14	3 5/16
Beta	08-06-84	08-12-84	18	3 5/16
	08-13-84	09-02-84	16	3 5/16
K-9	08-06-84	08-26-84	16	
Gorham	08-06-84	08-19-84	29	4 5/16
	08-20-84	09-02-84	27	4 5/16
Tower 2	08-06-84	08-19-84	14	3 5/16
	08-20-84	09-09-84	12	3 5/16
Christina	08-06-84	08-26-84	11	2 15/16
Tonnage	08-06-84	08-19-84	16	3 5/16
	08-20-84	08-26-84	14	3 5/16
	08-27-84	09-02-84	12	3
Waldin	08-06-84	08-19-84	16	3 5/16
	08-20-84	09-02-84	14	3 7/16
	09-03-84	09-16-84	12	3 5/16
Annie Ruth	08-06-84	08-26-84	21	3 13/16
Lisa (P)	80-13-84	08-19-84	12	3 5/16
	08-20-84	08-26-84	11	3
Day	08-06-84	08-19-84	14	3 5/16
	08-20-84	09-02-84	10	2 13/16
Catalina	08-20-84	09-02-84	24	
	09-03-84	09-23-84	22	
Pinkerton (P).	08-20-84	09-02-84	13	13
	09-03-84	09-16-84	11	
	09-17-84	09-30-84	9	
Fairchild	08-20-84	09-02-84	16	3 15/16
	09-03-84	09-16-84	14	3 7/16
	09-17-84	09-23-84	12	3 5/16
Loretta	08-20-84	09-02-84	30	4 5/16
	09-03-84	09-30-84	26	3 15/16
Blair	09-03-84	09-16-84	16	3 5/16
	09-17-84	10-07-84	14	3 5/16
Black Prince	08-20-84	09-02-84	28	4 1/16
	09-03-84	09-16-84	23	3 15/16
	09-17-84	10-07-84	16	3 5/16
Booth 8	09-03-84	09-23-84	16	3 5/16
	09-24-84	10-07-84	14	3 5/16
	10-08-84	10-21-84	10	3 1/16
Booth 7	09-03-84	09-16-84	18	3 15/16
	09-17-84	09-30-84	16	3 15/16
	10-01-84	10-14-84	14	3 5/16
Booth 5	09-10-84	09-23-84	14	3 5/16
	09-24-84	10-07-84	12	3 5/16
Guatemalan seedling.[2]	09-10-84	10-07-84	15	
	10-08-84	12-09-84	13	
Marcus	09-10-84	09-23-84	32	4 13/16
	09-24-84	11-04-84	24	4 5/16
Brooks 1978.	09-10-84	09-16-84	12	3 1/16
	09-17-84	09-23-84	10	3 1/16
	09-24-84	10-14-84	8	2 13/16
Collinson	09-17-84	10-14-84	16	3 15/16
Rue	09-17-84	09-23-84	30	4 5/16
	09-24-84	10-07-84	24	3 13/16
	10-08-84	10-21-84	18	3 5/16
Hickson	09-17-84	09-30-84	12	3 1/16

TABLE 1—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
	10-01-84	10-14-84	10	3
Chica	09-24-84	10-07-84	12	3 5/16
	10-08-84	10-21-84	10	3 1/16
Simpson	09-24-84	10-14-84	16	3 5/16
Choquette	09-24-84	10-14-84	26	4 5/16
	10-15-84	10-28-84	24	4 1/16
	10-29-84	11-11-84	20	3 15/16
	11-12-84	11-25-84	16	3 9/16
Winslowson	10-01-84	10-21-84	18	3 13/16
Booth 11	10-01-84	10-21-84	16	3 13/16
Leona	10-01-84	10-14-84	18	3 15/16
Hall	10-01-84	10-14-84	26	3 13/16
	10-15-84	10-28-84	20	3 5/16
	10-29-84	11-11-84	18	3 5/16
Herman	10-08-84	10-21-84	16	3 5/16
	10-22-84	11-04-84	14	3 5/16
Lula	10-08-84	10-21-84	18	3 1 1/16
	10-22-84	11-04-84	14	3 5/16
	11-05-84	11-18-84	12	3 5/16
Ajax (B-7)	10-15-84	11-04-84	18	3 1 1/16
Taylor	10-15-84	10-28-84	14	3 5/16
	10-29-84	11-11-84	12	3 5/16
Booth 3	10-15-84	10-21-84	16	3 5/16
	10-22-84	11-04-84	14	3 5/16
Byars	11-05-84	11-25-84	16	3 1 1/16
Linda	11-05-84	11-25-84	18	3 1 3/16
Monroe	11-05-84	11-18-84	26	4 3/16
	011-19-84	12-02-84	24	4 1/16
	12-03-84	12-16-84	20	3 15/16
	12-17-84	12-30-84	16	3 5/16
Booth 1	11-19-84	12-02-84	16	3 1 3/16
	12-03-84	12-16-84	11	3 5/16
Zic (P)	11-19-84	12-02-84	12	3 1/16
	12-03-84	12-16-84	10	2 1 1/16
Wagner	11-26-84	12-09-84	12	3 5/16
	12-10-84	12-23-84	10	3 5/16
Brookslate	12-10-84	12-23-84	18	3 1 3/16
	12-24-84	01-13-85	14	3 5/16
	01-14-85	01-27-85	12	3 5/16
	01-28-85	02-10-85	10	
Meya (P)	12-17-84	12-30-84	13	3 5/16
	12-31-84	01-13-85	11	3
Reed (P)	01-14-85	01-27-85	14	
	01-28-85	02-10-85	12	
	02-11-85	02-17-85	10	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings not listed elsewhere in Table I.

[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings not listed elsewhere in Table 1.

(b) The term "diameter" means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" means the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 51.3050–3069).

PART 944—[AMENDED]

2. Section 944.27 is added as follows:

§ 944.27 Avocado Import Regulation 35.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 28, 1984 through April 30, 1985 unless:

(1) Such avocados grade at least U.S. No. 3, as defined in § 915.329.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of

red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 2: *Provided,* That avocados may not be imported prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 2

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
West Indian seedling [1]	06-25-84	07-22-84	18	
	07-23-84	08-26-84	16	
	08-27-84	09-23-84	14	
Pollock	06-25-84	07-08-84	18	3 1/16
	07-09-84	07-22-84	16	3 1/16
	07-23-84	08-05-84	14	3 1/16
Trapp	07-23-84	08-05-84	14	3 1/16
	08-06-84	08-19-84	12	3 1/16
Catalina	08-20-84	09-02-84	24	
	09-03-84	09-23-84	22	
Guatemalan seedling [2]	09-10-84	10-07-84	15	
	10-08-84	12-09-84	13	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings, except for the Pollock and Trapp varieties.

[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings, except for the Catalina variety.

(b) It is hereby found that avocados imported into the United States shall meet the same grade and maturity requirements specified in § 915.329 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915), except that all varieties of avocados, other than the Pollock, Catalina, and Trapp varieties, shall meet comparable weight or diameter maturity requirements, because it is not practicable to apply the same requirements due to the variations in characteristics between avocados grown in Florida and avocados imported into the United States.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 400).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) *Minimum quantity exemption.* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(f) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

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

Dated: May 18, 1984.

Thomas R. Clark,

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

[FR Doc. 84-13771 Filed 5-22-84; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 21, 30, 31, 40, and 70

Information Collection Requirements, Display of OMB Control Numbers

Correction

In FR Doc. 84–12516 beginning on page 19623 in the issue of Wednesday, May 9, 1984, make the following corrections:

1. On page 19624, third column, the caption reading "§ "21.61 [Removed]" should have read "§ 21.61 [Amended]".

2. On page 19625, first column, amendatory paragraph 15, "In § 30.17" should have read "In § 30.37".

3. In the middle column of page 19625, in § 31.4(a), fourth line, "in this part or the Office of" should have read "in this part to the Office of". In the eighth line of the same paragraph, "OMB approved" should have read "OMB has approved".

4. On page 19626, third column, § 40.31, paragraph (g), in the thirteenth line, remove the parenthesis after "Form N–71" and insert a period.

5. On page 19628, § 70.21, paragraph (g), in the eighth line from the top of the middle column of the page, "74.14" should have read "75.14".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1404

Cellulose Insulation; Amendment of Labeling Requirement

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues a final amendment to labeling requirements concerning proper installation of cellulose insulation to avoid fire hazards. The amendment allows manufacturers to use the phrase "TO HELP AVOID FIRE" as an alternative to the phrase "POTENTIAL FIRE HAZARD" in the labeling statement required by existing regulations. The amendment also allows manufacturers to delete the word "cellulose" and related wording in the statement of fire hazards which may result from improper installation and instructions concerning proper installation practices. The Commission is taking this action because it concludes that the amendment issued below will overcome some of the objections to the labeling statement expressed by manufacturers, and will not diminish the effectiveness or utility of the label to inform persons installing insulation about the importance of proper installation to avoid fire hazards.

DATE: The amendment issued below is effective May 23, 1984.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION: Cellulose insulation is a form of thermal insulation used in buildings. It is made from cellulosic fibers derived from ground paper, wood chips, or other sources. Usually flame retardant chemicals are added to the cellulosic fibers during the manufacturing process to enhance resistance to ignition.

Background

In the **Federal Register** on July 6, 1979 (44 FR 39938), the Consumer Product Safety Commission issued an amendment of the Interim Safety Standard for Cellulose Insulation (16 CFR Part 1209), which is applicable to cellulose insulation produced or distributed for sale to consumers for installation in houses or residences, or for installation by professionals in houses or residences.

From fire incident information, engineering analysis of probable fire scenarios, and laboratory tests, the Commission determined that fires can occur where cellulose insulation is improperly installed too close to the sides or over the top of recessed electrical light fixtures, or too close to the exhaust flues from heat producing appliances such as furnaces, water heaters, and space heaters. The information available to the Commission indicated that fires may occur where cellulose insulation is improperly installed, even though the cellulose insulation complies with all requirements of the amended interim standard for cellulose insulation.

For these reasons, the Commission determined labeling of cellulose insulation is needed to inform persons installing cellulose insulation and consumers in whose houses that type of insulation is installed of the fire hazard associated with improperly installed cellulose insulation; and of the method for properly installing insulation to avoid this hazard.

Labeling Rule

In the **Federal Register** of July 6, 1979 (44 FR 39993), the Commission also issued labeling requirements applicable to cellulose insulation produced or distributed for sale to consumers or for installation by professionals in houses or residences. The labeling regulation is codified at 16 CFR Part 1404. Section 1404.4(a) of the regulation requires the following statement to appear on all bags of cellulose insulation subject to the amended interim standard:

Caution

Potential Fire Hazard: Keep cellulose insulation at least three inches away from the sides of recessed light fixtures. Do not place insulation over such fixtures to entrap heat.

Also keep this insulation away from exhaust flues or furances, water heaters, space heaters, or other heat-producing devices.

To be sure that insulation is kept away from light fixtures and flues, use a barrier to permanently maintain clearance around these items. Check with local building or fire officials for guidance on installation and barrier requirements.

Request to Installer: Remove this label and give it to the consumer at completion of job.

The amended interim standard and the labeling rule for cellulose insulation became the subjects of litigation brought in the U.S. Court of Appeals for the Ninth Circuit (Action No. 97–7433) and in the U.S. District Court for the Western District of Washington (Action No. 79–1022M). As part of a stipulated agreement and order dismissing the litigation in the U.S. Court of Appeals for the Ninth Circuit, the Commission agreed to propose an amendment of the labeling regulation to provide an alternative to certain language in the statement required by 16 CFR 1404.4(a).

Proposed Amendment of Labeling Rule

In the **Federal Register** of October 16, 1979 (44 FR 59557), the Commission proposed to amend 16 CFR 1404.4(a) by adding provisions which would allow substitution of the words "TO HELP AVOID FIRE" for the words "POTENTIAL FIRE HAZARD" in the required labeling statement. Additionally, the proposed amendment contained provisions to allow deletion of the word "cellulose" from the first sentence of the required statement: "Keep *cellulose* insulation at least three inches away . . . ."; and deletion of the word "this" from the third sentence of the required statement: "Also keep *this* insulation away . . . ." [Emphasis added]

The Commission agreed to propose these changes because the Commission believes that the accuracy of the labeling statement would not be adversely affected by the proposed change, and that the effectiveness and utility of the label to inform persons installing insulation about the importance of proper installation would not be diminished if use of the alternative language were allowed.

In the notice of October 16, 1979, the Commission solicited written comments on the proposal from all interested parties. In that notice, the Commission also announced that manufacturers of cellulose insulation could use the alternative wording allowed by the proposal immediately, pending completion of the rulemaking proceeding.

Comments on Proposal

In response to the proposal of October 16, 1979, the Commission received ten written comments. All comments on the proposal were submitted by manufacturers, distributors, or installers or cellulose insulation.

Seven comments expressed support for the proposed amendment. These comments stated that the proposed amendment would improve the accuracy of the labeling statement, and would help remove a competitive disadvantage imposed on cellulose insulation by the labeling regulation.

Two comments expressed support for the proposed amendment, but urged the Commission to require labeling of all types of insulation with information about fire hazards associated with improper installation and proper methods of installation.

When the Commission proposed the amendment to allow use of alternative language in the labeling statement required by 16 CFR 1404.4(a), it did not intend to initiate a proceeding to expand the scope of that regulation to cover thermal insulation other than cellulose insulation. For this reason, the comments urging the Commission to require labeling of all types of insulation are beyond the scope of this proceeding.

One other comment also supported the proposed amendment, but suggested additional revisions of the labeling statement to clarify responsibilities of the installer and the consumer. When the Commission published the proposal of October 16, 1979, it did not solicit comments on any modification of the labeling statement required for cellulose insulation other than to allow substitution of the phrase "TO HELP AVOID FIRE" for the words "POTENTIAL FIRE HAZARD," and to allow deletion of the words "cellulose" and "this" from the first and third sentences, respectively, of the required labeling statement. Consequently, to the extent this comment urges additional changes to the text of the required labeling statements, it also concerns matters beyond the scope of the proposal.

No comment received in response to the notice of proposal objected to issuance of the proposed amendment on a final basis. The Commission has not received any other information since publication of the proposal indicating that issuance of the proposed amendments on a final basis would adversely affect firms within the regulated industry or consumers.

Effective Date

The Administrative Procedure Act requires at 5 U.S.C. 533 that a "substantive rule" must be published at least 30 days before its effective date, unless the agency finds for good cause that an earlier effective date is needed

and publishes that finding with the final rule.

As stated above, when the Commission published the proposed amendment, it announced that it would allow use of the alternative language set forth in the proposal immediately pending completion of this proceeding. Because some manufacturers of cellulose insulation have been using the alternative wording allowed by the proposed amendment in reliance on the notice of October 16, 1979, the Commission finds that a delayed effective date for the amendment issued below would result in confusion and uncertainty for those firms. Accordingly, the Commission finds for good cause that an immediate effective date is needed for the amendment issued below.

Conclusion and Promulgation

After consideration of all of the matters discussed above, the proposal of October 16, 1979, written comments received in response to the proposal, and other relevant information, the Commission hereby concludes that that proposed amendment should be issued on a final basis.

List of Subjects in 16 CFR Part 1404

Consumer protection, Fire prevention, Flammable materials, Insulation, Labeling.

Therefore, in accordance with provisions of the Consumer Product Safety Act (15 U.S.C. 2076(e)), in Part 1404 of Title 16 of the Code of Federal Regulations, § 1404.4(a) is revised to read as follows:

PART 1404—CELLULOSE INSULATION

* * * * *

§ 1404.4 Requirements to provide performance and technical data by labeling—Notice to purchasers.

(a) Manufacturers of cellulose insulation shall give notification of performance and technical data related to performance and safety (1) to prospective purchasers at the time of original purchase and (2) to the first purchaser of such products for purposes other than resale in the following manner. Manufacturers of cellulose insulation shall label all containers of cellulose insulation with the following statement, using capital letters as indicated:

Caution

Potential Fire Hazard: Keep cellulose insulation at least three inches away from the sides of recessed light fixtures. Do not place insulation over such fixtures so as to entrap heat.

Also keep this insulation away from exhaust flues of furnaces, water heaters, space heaters, or other heat-producing devices.

To be sure that insulation is kept away from light fixtures and flues, use a barrier to permanently maintain clearance around these areas. Check with local building or fire officials for guidance on installation and barrier requirements.

Request to Installer: Remove this label and give it to the consumer at completion of job.

Manufacturers of cellulose insulation may substitute the phrase "TO HELP AVOID FIRE" for the phrase "POTENTIAL FIRE HAZARD" in the label described above. Manufacturers may also delete the word "cellulose from the first sentence of the label and may delete the word "this" from the third sentence of the label. The remainder of the label statement shall appear exactly as described above.

* * * * *

(15 U.S.C. 2076(e))

Effective date: This amendment shall become effective on May 23, 1984.

Dated: May 18, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-13859 Filed 5-22-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 3, 375, and 385

[Docket Nos. RM83-25-000 and RM79-65-000; Order No. 376]

Clarification of the Rules of Practice and Procedure; Establishment of Final Rule on NGPA Interpretations

Issued May 18, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is clarifying, amending, and otherwise establishing on a final basis parts of its Rules of Practice and Procedure in 18 CFR Part 385. Specifically, this rulemaking clarifies several procedural regulations in Part 385; makes final the interim procedures now found in Rule 1901 in Subpart S of Part 385, and republishes in Title 18 of the CFR regulations concerning modified procedures and *ex parte* rules for oil pipelines.

EFFECTIVE DATE: June 22, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withnell, Office of the General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

FINAL RULE

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is clarifying, amending, and otherwise establishing on a final basis parts of its Rules of Practice and Procedure in 18 CFR Part 385. This rulemaking accomplishes three objectives: (1) Clarify several procedural regulations and amend Part 385 accordingly; (2) make final the interim procedures in Rule 1901 in Subpart S of Part 385; and (3) republish in Title 18 of the Code of Federal Regulations regulations concerning oil pipeline modified procedures and *ex parte* rules that apply to certain Commission proceedings. These rules formerly appeared in the 1977 compilation of 49 CFR, the regulations of the Interstate Commerce Commission (ICC). The ICC regulated oil pipelines before passage of the Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

The amendments to Part 385 are minor changes designed to clarify and streamline the application of the revised Rules of Practice and Procedure established in 1982.[1] They do not entail any significant changes in Commission practice or procedure.

II. Background

On April 28, 1982, the Commission reorganized, revised, and updated major portions of its Rules of Practice and Procedure for trial-type Commission proceedings. The rule was issued in response to a need to expedite Commission proceedings and to make procedural rules more understandable. The final rule also transferred to Part 385, without significant amendment, an interim rule concerning requests for interpretations and interpretative rules under the NGPA. Further, the rule applied Commission procedures to oil pipeline filings and procedures except for the modified procedures and *ex*

[1] Revision of Rules of Practice and Procedure to Expedite Trial-Type Hearings, Final Rule, Docket No. RM78-22-000, issued Apr. 28, 1982 (Order No. 225) 47 FR 19,014 (May 3, 1982) [hereinafter cited as 1982 Revisions].

parte rules which were incorporated by reference only from the regulations of the ICC.

Experience with the revised Rules of Practice and Procedure demonstrates that the 1982 changes have advanced the Commission's goal of expediting decision-making procedures. This experience, however, has also revealed several instances where the rules need to be clarified or revised to reflect actual Commission practice. This rulemaking incorporates these clarifications and revisions.

The Commission has also reviewed its interim procedures in Rule 1901 of Subpart S in light of the comments recieved on them. In view of the Commission's experience responding to request for interpretations and interpretative rules, it has concluded that the interim rules should be made final without significant change.

Finally, with respect to incorporation into Part 385 of the modified procedures and *ex parte* rules for oil pipeline filings,[2] when the Commission revised its procedural rules in 1982, it decided to apply its own rules to oil pipeline filings and proceedings, with two exceptions. The Commission decided to continue to apply to oil pipeline filings and proceedings the ICC rules on modified procedures and *ex parte* contacts. The Commission therefore incorporated these ICC rules by reference into its procedural rules. 18 CFR 385.101 (b)(4) and (d) (1983).

The Commission has decided that, for ease of reference, it should reprint these ICC rules in its own regulations. This will facilitate their use since the modified procedures and *ex parte* rules that the Commission incorporated by reference in its rules are the regulations as they existed on September 30, 1977 and are unavailable in current compilations of the Code of Federal Regulations.

III. Clarifications and Revisions

A. Motions Filed to the Commission During a Hearing

Rule 212(d), 18 CFR 385.212(d) (1983), authorizes an automatic 30-day denial of motions filed after a hearing under Subpart E of Part 385 has commenced. This rule has been a source of confusion in Commission proceedings. By its title, "Motions to the Commission during a hearing," the rule does not apply to motions filed to the Commission before a matter is set for hearing. The preamble to the final rule reiterates this conclusion.[3] The text of the rule, however, implies that motions filed after an initial decision has been rendered are also subject to the automatic 30-day denial because these motions are made after a hearing under Subpart E of Part 385 has commenced. In fact, the Commission has not treated motions made after an initial decision has been rendered as subject to the 30-day automatic denial provision.

During the actual hearing, most motions are filed with the presiding officer, not with the Commission. In instances where a motion is filed with the Commission, such a motion to waive an initial decision, Rule 710, which governs these motions, has its own procedures regarding grants and denials. It is therefore specificially exempted from Rule 212(d).

The Commission may also decide other matters arising during a hearing, such as interlocutory appeals under Rule 715.[4] Such decisions, however, are made after a presiding officer has ruled on the initial motion to appeal and the ruling has been appealed to the Motions Commissioner for further review. Rule 715, moreover, contains specific provisions regarding the disposition of interlocutory appeals. Thus, Rule 212(d) appears to be unnecessary because other, more specific rules in Part 385 govern the disposition of motions and appears to serve no purpose with respect to any other pleadings. The Commission therefore believes that eliminating Rule 212(d) will clarify the rules and still maintain Commission policy with regard to motions made during a hearing.

B. Answers

Parties in some cases before the Commission have been filing responses to protests, answers, motions for oral argument and requests for rehearing, contrary to the intent of Rule 213. While the decisional authority may permit such pleadings under the terms of Rule 213(b)(2), the Commission wishes to emphasize that answers, however captioned, are prohibited in the absence of such permission. Rule 213(a)(2) is therefore being amended to stipulate that, where an answer is not allowed, no responsive pleading may be made. This revision reflects the Commission's concern that its proceedings not become unduly complicated and burdensome.

C. Late Interventions

Before the adoption of the 1982 revisions, the Commission frequently cited four factors for determining whether to grant late intervention, based on *Consolidated Gas Supply Corp.*, 20 FERC ¶ 61,305 (May 13, 1982). The first of the four *Consolidated* factors was "the nature of the interest alleged by the late intervener and whether that interest is adequately represented by other parties in the proceeding." In the 1982 revisions, the Commission set forth in Rule 214(d) general criteria to be applied by the decisional authority in exercising discretion to grant late intervention. Among those criteria, the Commission did not include the question whether "the movant's interest is adequately represented by other parties in the proceedings."

Opinions issued since the 1982 revisions frequently still cite the first *Consolidated* factor as a basis for late intervention. Since the list of criteria in Rule 214(d) is not intended to be exclusive, this reference is not unusual. Because Commission decisions continue to reflect this criterion, however, the Commission believes that Rule 214(d) should be modified to reflect actual Commission practice. Therefore, Rule 214(d) is being amended to include the first *Consolidated* factor as a basis for granting late intervention. This change conforms the rules to Commission practice and clarifies that adequate representation may be considered when a decisional authority rules on late interventions.

D. Consolidation and Severance by Chief Administrative Law Judge

Rule 503 vests in the Chief Administrative Law Judge (Chief ALJ) the power to consolidate or sever proceedings. According to the preamble to the 1982 Rules, a right to interlocutory appeal of a decision to consolidate or sever is available.[5] The actual rule, however, does not state this fact. Additionally, Rule 715, which authorizes interlocutory appeals, applies only to rulings of a presiding officer. The Chief ALJ may not be presiding when deciding to consolidate or sever proceedings under Rule 503. The Commission is therefore revising Rule 503 to reflect that an interlocutory appeal of a decision to consolidate or sever proceedings is available. this change codifies the commission's intent as indicated in the preamble to the 1982 revisions.

[2] Jurisdiction over oil pipelines was transferred to the Commission in 1978 as a result of the Department of Energy Organization Act, 42 U.S.C. 7155 and 7172(b) (1982).

[3] 1982 Revisions, 47 FR at 19,017 (May 3, 1982). *See also* Northern Natural Gas Co., Docket No. CP82-500-000 *et al.*, 23 FERC ¶ 61,256 (May 19, 1983). The Commission recognizes, however, that the text of a rule always controls and that its title has no necessary legal effect.

[4] Presiding officers may also certify questions of law, policy, or procedure to the Commission under Rule 714. These questions are subject to an automatic return to the presiding officer after 30 days. 18 CFR 385.714(d) (1983).

[5] 1982 Revisions, 47 FR at 19,018.

E. Waiver of the Initial Decision

Rule 710, waiver of the initial decision, allows participants to ask the Commission to issue a final decision without first obtaining an initial decision from a presiding officer. The rule as drafted states that, if all participants join in the motion, the motion is granted, unless the Commission denies the motion within 10 days after it is filed.

The rule is less clear on what happens to motions in which fewer than all participants join. Rule 212(d), however, suggests that such motions would be automatically denied after 30 days unless granted by the Commission.

The Commission is proposing to delete Rule 212(d). As stated above, that rule is largely superfluous because the motions it governs contain their own automatic denial provisions. The only remaining justification for Rule 212(d) is that it governs the disposition of motions to waive an initial decision that are not unanimous. Rather than preserving Rule 212(d) to govern such motions, however, the Commission prefers to amend Rule 710 to clarify what happens to motions to waive an initial decision not agreed to by all participants. The Commission is therefore amending Rule 710 to include an automatic 30-day denial specifically for Rule 710 motions. This revision is not a change in Commission practice.

F. Interlocutory Appeals

In keeping with the overall purpose of the Rules of Practice and Procedure to expedite agency proceedings, the Commission is amending Rule 715 to insert a time limit on the filing of motions to permit interlocutory appeals to the Commission from a ruling by the presiding officer. Under the amendment, participants will have 15 days to file this motion from the time a presiding officer makes a ruling. This time period parallels the time now allowed by the rule for presiding officers to issue an order on the motion for an interlocutory appeal. 18 CFR 385.715(b)(6) (1983).

The Commission believes this time limit will foster more orderly procedures and still provide participants sufficient opportunity to prepare and file motions requesting interlocutory appeals. Most such motions are made expeditiously under the existing rule because of the nature of interlocutory relief. This revision therefore does not impose an undue burden on any participant.

G. Appeals From Action by Staff

A review of recent Commission decisions indicates that some confusion exists about Rule 1902, appeals from action by staff.[6] That rule states that parties may appeal delegated staff actions to the Commission. Staff actions are final in the absence of any appeal. If an appeal is taken to the Commission, a decision on that appeal is final agency action that is subject to a request for rehearing under Rule 713. A party may thus not seek rehearing of an action of staff unless that party or another party to the proceeding has appealed the staff action to the Commission.[7] Rule 1902 is not explicit on this point and is thus being revised.

H. Computation of Time

To reflect actual practice at the agency, the Commission is amending Rule 2007 concerning the computation of time prescribed or allowed by statute or Commission rule. As currently drafted, a time period stated in days involves 24-hour increments and ends at midnight of a prescribed day, provided it is not a Saturday, Sunday, part-day holiday that affects the Commission, or a legal public holiday. Under a strict but impractical reading of the current rule, to be timely, requests for rehearing, for example, which are due within 30 days of issuance of a Commission order, must be filed by midnight on the 30th day. In actual practice, however, no Commission employee would likely be available after the close of business to accept a rehearing request. The same holds true for other filings. The rule, therefore, is being changed to delete "midnight" and insert "the close of business" as the time by which all filings must be made, unless the Commission otherwise orders. The Commission does not believe any entity will be inconvenienced by the change since it reflects a routine business practice.

I. General Provisions

The Commission is adding a new rule to Subpart A, *Applicability and Definitions*, to establish a rule of construction. New Rule 104 provides that, when the text of a rule in Part 385 conflicts with its caption, the text controls. This is a standard legal rule of construction. The Commission believes that the confusion, such as that created by the title of Rule 212(d), which is resolved in this rulemaking, can be easily avoided with such a rule of construction. The Commission is not aware of other conflicts between rules and their captions.

IV. Final Rule: Interpretations and Interpretative Rules Under the NGPA

Section 502(c) of the Natural Gas Policy Act, 15 U.S.C. 3412(c) (1982), requires the Commission to establish procedures so that any person may seek an interpretation of the statute. In 1979, the Commission issued interim rules in 18 CFR 1.42 establishing a mechanism by which an individual could seek written interpretations from the Commission's General Counsel construing the NGPA or Commission rules or orders implementing it.[8] These interim rules were transferred in 1982 to part 385 when the Commission revised its Rules of Practice and Procedure.

Twelve comments were filed in response to the interim rule.[9] The majority of commenters expressed concern that a company relying on an interpretation from the General Counsel could be subject to civil or criminal enforcement proceedings if the Commission later modified or reversed the interpretation. Several commenters also suggested that the Commission notice requests for interpretations in the **Federal Register** to give third parties an opportunity to comment on them.

The Commission believes that commenters' concerns about the retroactive effect of interpretations are misplaced. As discussed in the preamble to the interim rules, interpretations are binding on Commission staff who will thus not recommend to the Commission that enforcement action be taken against a person who relies on an interpretation that is later changed. The interpretations of the General Counsel are not binding on the Commission, however, so that the Commission is unprepared to provide by rule, as some commenters suggested, that reliance on an interpretation will immunize a person from civil or criminal liability if the Commission revises or modifies the interpretation. The Commission has other procedures available—interpretative rules and declaratory orders—for those individuals wishing to

[6] *See, e.g.*, Tranquility Irrigation District, Project No. 6986-000 *et al.*, 26 FERC ¶ 61,054, n.1 (Jan. 20, 1984) and Natural Gas Pipeline Company of America, Docket No. CP83-209-001, 26 FERC ¶ 61,019, n.1 (Jan. 13, 1984).

[7] Jackson Falls Hydroelectric Power Company, Project Nos. 6827-003 and 6827-004, 26 FERC ¶ 61,144, n.1 (Feb. 6, 1984).

[8] Interim Regulations Establishing Procedures for Seeking Interpretations and Declaratory Orders Under the Natural Gas Policy Act of 1978, Docket No. RM79-65-000, issued Aug. 7, 1979 (interim rules) 44 FR 48,171 (Aug. 17, 1979).

[9] The commenters were: Indicated Producers, Pennzoil Company, Public Service Commission of New York, Southern Natural Gas Company, Texas Gas Transmission Company, Robertson and Stensrud, the Process Gas Consumers Group, Northern Natural Gas Company, Interstate Natural Gas Association of America, Delhi Gas Pipeline Corporation, Tenneco Oil Company, and Natural Gas Pipeline.

secure a binding Commission decision interpreting the NGPA.

The Commission also disagrees that request for interpretations from the General Counsel should be published in the **Federal Register** for notice and comment. These requests are intended to deal with specific factual situations applicable to an identified group of participants included in the act, transaction or circumstance that is the subject of the request. The current rules require that these participants be notified of the request. Additional notice requirements and provision of the opportunity for public comment would unnecessarily prolong the procedures to the detriment of the persons requesting the interpretation.

For questions about the NGPA that may recur or may have major precedential effect, an individual may request an interpretative rule or declaratory order. These requests are subject to notice and comment. Interested individuals thus have the opportunity to make their views known before the Commission issues a final binding policy decision. A similar procedure is not warranted when the General Counsel issues an interpretation explaining how the NGPA or the Commission's rules implementing it affects an actual or contemplated business transaction.

Because the Commission believes its procedures on interpretations and interpretative rules adequately implement its responsibility under section 502(c), it is making Rule 1901 final without change.

V. ICC Modified Procedures and Ex Parte Rules

The Rules of Practice and Procedure, in Rule 101(b)(4) (i) and (ii), state that the modified procedures which apply to oil pipelines and which are set forth in 49 CFR 1100.42—1100.52 (1977) and the *ex parte* in Appendix C of 49 CFR Part 1100 (1977) continue to apply to oil pipeline proceedings.[10] Rather than retaining the incorporation of these regulations by reference, the Commission is now setting out the text of these rules in Title 18. Since the modified procedures for oil pipelines and *ex parte* rules are those that were in effect on September 30, 1977, and do not exist in the current regulations of the Interstate Commerce Commission, this Commission believes that publishing the text of the rules in Title 18 will provide for ease of reference and use, until such time as it may initiate further changes.

The modified procedures will be codified as new § 385.1404 through § 385.1414 and the *ex parte* rules for oil pipeline matters will be codified as new § 385.1415. No modifications other than conforming changes are being made to these regulations and this action does not change the legal effect, scope, or applicability of the 1977 rules. References to 49 CFR will be changed to reflect publication of these provisions in Title 18 of the Code of Federal Regulations.

VI. Paperwork Reduction Act Statement

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR 1320.12 (1983), require that OMB approve certain information collection requirements imposed by an agency. The revisions to the Rules of Practice and Procedure provided for in this rulemaking are not information collection requirements within the meaning of the PRA and OMB's regulations and are not, therefore, subject to OMB review or approval.

VII. Administrative Procedure Act (APA)

The Commission is taking three actions in this order: (1) it is revising its procedural rules to reflect actual agency procedures; (2) it is making final three interim rules; and (3) it is publishing in Title 18 of the *Code of Federal Regulations* rules that apply to certain of its jurisdictional companies.

The Commission believes it has good cause for issuing this order without an opportunity for comment. Additional public procedures are unnecessary. 5 U.S.C. 553(b)(B) (1982). The revisions the Commission is adopting to its Rules of Practice and Procedure are technical amendments intended to clarify ambiguities in the rules and revise them to reflect actual agency practice. The revisions make no substantive changes affecting the rights of participants. [11]

The interim rule that the Commission is making final was published for notice and comment. The Commission has carefully analyzed all the comments received and believes that, because it is finalizing this rule without change after review of the record, further comment would serve no useful purpose.

The republication of the ICC's rules on oil pipeline modified procedures and *ex parte* rules is being undertaken for ease of reference only. This republication does not change their legal effect, or the rights and interests of parties to oil pipeline modified procedures.

List of Subjects

18 CFR Part 3

Administrative practice and procedure, Freedom of information, Organization and functions (government agencies).

18 CFR Part 375

Authority delegations (government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 385

Administrative practice and procedure.

In consideration of the foregoing and effective June 22, 1984, the Commission orders:

1. Parts 3 and 385, Chapter I, Title 18 Code of Federal Regulations, are amended as set forth below.

2. Rule 1901 in Subpart S of Part 385 is adopted as a final rule, without amendment.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 3—[AMENDED]

1. The authority citation for Subpart A of Part 3 reads as follows:

Authority: Sec. 16, 52 Stat. 830, sec. 309, 49 Stat. 858, sec. 3, 60 Stat. 236; 15 U.S.C. § 7170, 16 U.S.C. 825h, 49 U.S.C. 17, 5 U.S.C. 552.

§ 3.4 [Amended]

2. Section 3.4 is amended in paragraph (c) by removing the parenthetical "(49 CFR Part 1100)".

PART 375—[AMENDED]

§ 375.306 [Amended]

3. In § 375.306, paragraph (h) is amended by removing the words "49 CFR 1100.43 to 1100.52" and inserting, in their place, the words "Rules 1404 through 1414".

4. Subpart A is amended by adding new sections to the Table of Contents to read as follows:

PART 385—RULES OF PRACTICE AND PROCEDURE

Subpart A—Applicability and Definitions

Sec.

* * * * *

385.104 Rule of Construction (Rule 104).

* * * * *

Subpart N—Oil Pipeline Proceedings

385.1404 Petitions Seeking Institution of Rulemaking Proceedings (Rule 1404).

[10] The *ex parte* rules, as effective on September 30, 1977, apply in lieu of Rule 2201, the Commisson's *ex parte* rules.

[11] The Commission believes that issuance of this final rule is also exempt from the notice requirements of the APA. 5 U.S.C. 553(b)(A). *See* Batterton v. Marshall 648 F. 2d 694 (D.C. Cir. 1980).

Sec.
385.1405 Modified Procedure, How Initiated (Rule 1405).
385.1406 Modified Procedure; Effect of Order (Rule 1406).
385.1407 Modified Procedure; Intervention (Rule 1407).
385.1408 Modified Procedure; Joint Pleadings (Rule 1408).
385.1409 Modified Procedure; Content of Pleadings (Rule 1409).
385.1410 Modified Procedure; Verification (Rule 1410).
385.1411 Modified Procedure; When Pleadings Filed and Served (Rule 1411).
385.1412 Modified Procedure; Copies of Pleadings (Rule 1412).
385.1413 Modified Procedure; Hearings (Rule 1413).
385.1414 Modified Procedure; Subsequent Procedure (Rule 1414).
385.1415 Rule Applicable to Ex Parte Communications during Oil Pipeline Proceedings (Rule 1415).

* * * * *

5. The authority citation for Part 385 reads as follows:

Authority: Administrative Procedure Act, 5 U.S.C. 551–557; Department of Energy Organization Act, 42 U.S.C. 7101–7352; Exec Order No. 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791–828c, as amended; Natural Gas Act, 15 U.S.C. 717–717z, as amended; Natural Gas Policy Act, 15 U.S.C. 3301–3432; Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Interstate Commerce Act, 49 U.S.C. 1, *et seq.*

6. Section 385.101, is amended as follows:

A. Paragraph (b)(4) is revised to read as follows:

§ 385.101 Applicability (Rule 101).

* * * * *

(b) *Exceptions.* * * *

(4) With respect to any oil pipeline filing a proceeding:

(i) The modified procedures set forth in Rules 1404 through 1414 will apply; and

(ii) The ex parte rules set forth in Rule 1415 apply in lieu of rule 2201.

B. Paragraph (d) is deleted.

7. Subpart A is amended by adding a new § 385.104 to read as follows:

§ 385.104 Rule of Construction (Rule 104).

To the extent that the text of a rule is inconsistent with its caption, the text of the rule controls.

§ 385.212 [Amended]

8. Section 385.212 is amended by removing paragraph (d) in its entirety.

9. In § 385.213, paragraph (a)(2) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 385.213 Answers (Rule 213).

(a) * * *

(2) * * * If an answer is not otherwise permitted under this paragraph, no responsive pleading may be made.

* * * * *

10. Section 385.214 is amended in paragraph (d)(1) by adding a new paragraph (d)(1) (iii) and redesignating existing paragraph (d)(1) (iii) and (iv) as paragraphs (d)(1) (iv) and (v), respectively, to read a follows:

§ 385.214 Intervention (Rule 214).

* * * * *

(d) *Grant of late intervention.* (1) * * *

(iii) The movant's interest is not adequately represented by other parties in the proceeding;

(iv) Any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and

(v) The motion conforms to the requirements of paragraph (b) of this section.

* * * * *

11. Section 385.503 is amended by adding a new sentence at the end of the section to read as follows:

§ 385.503 Consolidation and severance by Chief Administrative Law Judge (Rule 503).

* * * Such order may be appealed to the Commission pursuant to rule 715.

12. Section 385.710 is amended in paragraph (a) by adding a new sentence at the end to read as follows:

§ 385.710 Waiver of the initial decision (Rule 710).

(a) *General rule.* * * * If all participants do not join in the motion, the motion is denied unless the Commission grants the motion within 30 days of filing of the motion or, in the case of an oral motion under paragraph (c)(2) of this section, within 30 days after the motion is transmitted to the Commission.

* * * * *

13. In § 385.715, the second sentence of paragraph (b)(1) is revised to read as follows:

§ 385.715 Interlocutory appeals to the Commission from rulings of presiding officers (Rule 715).

* * * * *

(b) *Motion to the presiding officer to permit appeal.*

(1) * * * The motion must be made within 15 days of the ruling of the presiding officer and must state why prompt Commission review is necessary under the standards of paragraph (a) of this section

* * * * *

14. In Part 385, a new Subpart N is added to read as follows:

Subpart N—Oil Pipeline Proceedings

§ 385.1404 Petitions seeking institution of rulemaking proceedings (Rule 1404).

Any person may file a petition requesting the Commission to institute a proceeding for the purpose of issuing statements, rules, or regulations of general applicability and significance designed to implement or interpret law, or to formulate general policy for future effect. No reply to such a petition may be filed. Whether a proceeding shall be instituted as requested is within the discretion of the Commission and the ruling on the petition will be final. In the event a rulemaking proceeding is instituted by the Commission, the procedure to be employed for the taking of evidence or the receipt of views and comments will be designated by Commission order.

§ 385.1405 Modified procedure, how initiated (Rule 1405).

The Commission may, in its discretion, order that a proceeding be heard under modified procedure if it appears that substantially all important issues of material fact may be resolved by means of written materials and that the efficient dispositon of the proceeding can be made without oral hearing.

(a) *Commission's initiative or by request.* Modified procedure will be ordered in a proceeding upon the Commission's initiative or upon its approval of a request filed by any party that the modified procedure shall be observed.

(B) *Order directing modified procedure.* An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified procedure rules. As used in Rules 1409, 1411, and 1413 the term "complainant" shall comprehend the party having the initial duty to establish the truth of the claim or to justify the relief or authorization sought, and the term "defendant" shall comprehend the party controverting the truth of the claim or opposing the relief or authorization sought.

§ 385.1406 Modified procedure; effect of order (Rule 1406).

(a) *Relief from answer rule.* Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in Rule 213.

(b) *Default where failure to comply.* If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith,

such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

§ 385.1407 Modified procedure; intervention (Rule 1407).

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions of Rule 1409 below.

§ 385.1408 Modified procedure; joint pleadings (Rule 1408).

Parties having common interests, to the extent practicable, shall arrange for joint preparation of pleadings filed under modified procedure.

§ 385.1409 Modified procedure; content of pleadings (Rule 1409).

(a) *Generally.* A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. Only facts contained in the verified statement of facts can be used in argument. If, pursuant to Rule 1406(a), no answer has been filed, defendant's statement must admit or deny specifically and in detail each material allegation of the complaint. In addition, defendant's statement and complainant's statement in reply shall specify those statement of facts and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) *Exhibit identification.* An exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right hand corner:

"Complainant (Defendant).....Exhibit No. _____
Witness _____

(c) *Damages.* If an award of damages is sought, the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

§ 385.1410 Modified procedure; verification (Rule 1410).

The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

§ 385.1411 Modified procedure; when pleadings filed and served (Rule 1411).

Within 20 days from the date of service of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days thereafter defendant shall serve its statement. Within 20 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

§ 385.1412 Modified procedure; copies of pleadings (Rule 1412).

The original and six copies of any statement made pursuant to Rule 1411 shall be filed with the Commission. Subsequent pleadings are subject to Rule 1414.

§ 385.1413 Modified procedure; hearings (Rule 1413).

(a) *Request for cross examination or other hearing.* If cross examination of any witness is desired, the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) *Hearing issues limited.* The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

§ 385.1414 Modified procedure; subsequent procedure (Rule 1414).

Procedure subsequent to that provided in the modified procedure rules shall be the same as that in proceedings not handled under modified procedure.

§ 385.1415 Rule applicable to ex parte communications during oil pipeline proceedings (Rule 1415).

(a) *Ex parte communications.* (1) No person who is a party to, or counsel or agent of a party, or who intercedes in, any on-the-record proceeding, shall submit any ex parte communication concerning the merits of the proceeding to any member of the Commission, hearing officer, or employee of the Commission participating or who may reasonably be expected to participate in the decision in such proceeding.

(2) No member of the Commission, hearing officer, or employee of the Commission participating or who may reasonably be expected to participate in the decision in such proceeding shall invite or knowingly entertain any prohibited ex parte communication, or make any such communication to any party to, or counsel or agent of a party, or any other person who he has reason to know may transmit such communication to a party or party's agent.

(b) The prohibitions of paragraph 1 apply from the time an on-the-record proceeding is noticed for oral hearing or the taking of evidence by modified procedure, at such time as the person responsible for the communication has knowledge that the proceeding will be so noticed, or from such earlier time as the Commission may fix by rule or order in the particular case.

(c) For the purposes hereof:

(1) "On-the-record proceeding" means a proceeding described in sections 556–557 of the Administrative Procedure Act (5 U.S.C. 556–557) or a proceeding required by the Constitution, by statute, by Commission rule, or by order in the particular case, to be decided solely upon the record made in a Commission hearing.

(2) "Person who intercedes in any proceeding" means any individual outside the Commission (whether public or private life), partnership, corporation, or association, other than a party or an agent of a party, who volunteers a communication which he may be expected to know may advance or adversely affect the interest of a particular party or any party's agent.

(3) "Ex parte communication concering the merits" includes both oral and written communications, but the following classes of ex parte communication shall not be prohibited:

(i) Any oral or written communication which all the parties to the proceeding agree, or which the Commission or the hearing officer formally rules, may be made on an ex parte basis.

(ii) Any oral or written communication of facts or contentions with general significance for an industry subject to regulation if the communicator cannot reasonably be expected to know that the facts or contentions are material to a substantive issue in a pending on-the-

record proceeding in which he is interested.

(iii) Any communication by means of any news medium which in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publications with respect to pending on-the-record proceedings.

(iv) "Any employee of the Commission participating in the decision" includes members of the Oil Pipeline Board, Commissioners and their personal assistants, and any staff acting as a participant, as defined in Rule 385.102(b) in oil pipeline proceedings.

(d) Any member of the Commission, hearing officer, or employee of the Commission, participating or who reasonably may be expected to participate in the decision, who personally receives a written communication which he believes is prohibited at the time received, shall promptly transmit the written communication, or a written summary of the substance of an oral communication, together with a written statement of the circumstances under which the communication was made, if not apparent from the communication itself, to the Secretary of the Commission, who shall place any material so received in the correspondence section of the public docket of the proceeding. Any such person who receives a communication and who is not certain whether such communication is a prohibited ex parte communication may request, and shall be given promptly, a ruling on the question from the Commission's General Counsel. The Chairman of the Commission shall be notified promptly of all reports of ex parte communications, or requests for rulings on possible ex parte communications, transmitted to the Secretary or the General Counsel. He may require that any such communication be placed in the correspondence section of the docket if he concludes that the dictates of fairness require that it be made public, even if it is not prohibited communication, and he may direct the taking of such other or further action as may be appropriate under all circumstances.

(e) The Commission may censure, or suspend or revoke the privilege to practice before the agency, of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

(f) To the extent permitted by law, the relief or benefit sought by a party to a proceeding may be denied if the party, or an agent of the party, knowingly and willfully violates the foregoing prohibitions or requirements.

15. Section 385.1902 is revised to read as follows:

§ 385.1902 Appeals from action of staff (Rule 1902).

(a) Any staff action (other than a decision or ruling of presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under Subpart E of this part) taken pursuant to authority delegated to the staff by the Commission that would be final, but for the provisions of this section, may be appealed to the Commission by a party. A *Commission decision* on a petition for appeal is a prerequisite to *a request* for rehearing under Rule 713.

(b) The challenged staff action may be appealed by filing a petition within 30 days of the action. Answers to such petitions may be filed by any party within 10 days of service of the petition. An appeal from any ruling of a presiding officer referred to in Rule 102(e)(1) made in a proceeding set for hearing under Subpart E of this part will conform to the requirements of Rule 715 (interlocutory appeals to the Commission from rulings of presiding officers).

(c) The Commission considers that a petition for appeal from action taken by the staff is deemed denied if not acted upon by the Commission within 30 days after the filing of such petition. The Commission further considers its action on appeals made pursuant to this section to be final agency action that is subject to a request for rehearing under Rule 713 (request for rehearing).

§ 385.2007 [Amended]

16. Section 385.2007 is amended in paragraph (a)(2) by deleting the word "midnight" and inserting, in its place, the words "the close of Commission business."

§ 385.2201 [Amended]

17. Section 385.2201 is amended in paragraph (b)(1), by changing all references to "49 CFR Part 1100, Appendix C" to read "Rule 1415".

[FR Doc. 84-13750 Filed 5-22-84; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM 79-76-167 (Colorado-5 Addition); Order No. 378]

High-Cost Gas Produced From Tight Formations; Colorado

Issued: May 18, 1984.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation of the Colorado Oil & Gas Conservation Commission that portions of two additional sections of the Lower Mesaverde Formation in Mesa County, Colorado be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Jane Oliver, (202) 357-8316, or Victor Zabel, (202) 357-8616.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

Based on a recommendation made by the Colorado Oil and Gas Conservation Commission (Colorado), the Commission amends its regulations[1] to include portions of two sections of the Lower Mesaverde Formation, which consists of the Rollins, Cozzette and Corcoran Sandstones underlying the Plateau Creek Field area in Mesa County, Colorado as a designated tight formation eligible for incentive pricing.[2] The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on January 27, 1983.[3]

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[1] 18 CFR 271.703(d) (1983).

[2] On May 28, 1981, in its Order No. 148, Docket No. RM79-76 (Colorado-5), the Commission designated portions of the Lower Mesaverde Formation in the Plateau Creek field area of Mesa County, Colorado as a tight formation. In Order No. 148, all of the area recommended in this docket, as well as some other sections, were excluded from tight formation designation. The exclusion was based on the Commission's finding that those sections had been substantially developed by infill drilling. Nevertheless, the Commission stated that the excluded areas could qualify as a tight formation, if sufficient data indicated the areas would not be further developed without the section 107(c)(5) price.

[3] 48 FR 4482, February 1, 1983. Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

Since the proposed area was excluded from a tight formation designation because it was substantially developed by infill drilling, both § 271.703(c)(2)(i)(D) as well as §§ 271.703(c)(2)(i)(A)–(C) must be met. Section 271.703(c)(2)(i)(D) allows designation of infill areas where there is evidence that the area cannot be developed absent the tight formation incentive price. Evidence submitted by Colorado supports the assertion that the subject additional areas of the Lower Mesaverde Formation locate in Mesa County, Colorado meet the guidelines contained in § 271.703(c)(2).[4] The Commission adopts this recommendation.

This amendment shall become effective June 18, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(25) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(25) *The Lower Mesaverde Formation in Colorado.* RM79–76 (Colorado–5).

(i) *Delineation of formation.* The Lower Mesaverde Formation, consisting of the Rollings, Cozzett and Corcoran Sandstone members, is located in the Plateau Creek Field area 30 miles east-northeast of Grand Junction, Colorado in Mesa County, Colorado. The designation area includes Township 9 South, Range 95 West, Sections 19 through 23, 26 through 36; Township 9 South, Range 96 West, Section 25 through 36, Township 9 South, Range 97 West, Sections 25 and 36; Township 10 South, Range 94 West, Sections 6, 7, 18, 19, 30 and 31; Township 10 South, Range 95 West, Section 1 through 16 NW¼ and SE¼ of Section 17, 20 through 29, 31 through 36; Township 10 South, Range 96 West, Sections 1 through 11, 14 through 22, 29 through 32, S½ and NE¼ of Section 33, Sections 34 through 36; Township 10 South, Range 97 West, Sections 1, 12, 13, 24, 25 and 36; All from the 6th P.M.

(ii) *Depth.* The average to the top of the Lower Mesaverde Formation is 3,850 feet.

[4] The United States Department of the Interior, Bureau of Land Management, concurs in Colorado's recommendation.

[FR Doc. 84–13749 Filed 5–22–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization: Center for Drugs and Biologics Officials, et al.

Correction

In FR Doc. 84–10045 beginning on page 14931 in the issue of Monday, April 16, 1984, make the following correction on page 14933:

In the third column, § 5.53(a)(2) should read "(2) The Director and Deputy Director, Center for Drugs and Biologics (CDB), and the Director and Deputy Director, Office of Biologics Research and Review, CDB."

BILLING CODE 1505–01–M

21 CFR Part 5

Delegations of Authority and Organization; Enforcement Authority

Correction

In FR Doc. 84–12715, beginning on page 19972 of the issue of Friday, May 11, 1984, make the following corrections on the same page:

1. In the third column, the third paragraph of **SUPPLEMENTARY INFORMATION,** second line from the end, "200 A" should be "200 C".

2. In the following paragraph, the fourth line "200 C" should be "200 A".

BILLING CODE 1505–01–M

21 CFR Parts 201 and 310

[Docket No. 75N–0062]

Labeling for Oral Hypoglycemic Drugs of the Sulfonylurea Class

Correction

In FR Doc. 84–9640, beginning on page 14303 of the issue of Wednesday, April 11, 1984, make the following corrections:

1. On page 14310, first column, fourth paragraph from the top, sixth line, the first "unknown" should be "known".

2. On page 14311, second column, tenth line of paragraph 24, "Anual" should be "Annual".

3. On page 14329, second column, the last line of Reference 9 reading "12:167–19 1971." should read, "12:167–191 1971.".

4. On page 14330, second column, the last line of Reference 56, "177" should be "1977".

BILLING CODE 1505–01–M

VETERANS ADMINISTRATION

38 CFR Part 3

Special Allowance To Restore Certain Social Security Benefits

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration has adopted a regulation which implements a new Federal benefit created by legislation. This new benefit is designed to replace many of the social security benefits that were reduced or terminated under prior legislation and is available to surviving spouses and children of certain persons who either died on active duty or died as a result of service-connected disabilities.

EFFECTIVE DATE: This regulation is effective January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Compensation and Pension Regulations Staff Chief (211B), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3005.

SUPPLEMENTARY INFORMATION: On pages 56802–56805 of the **Federal Register** of December 23, 1983, the Veterans Administration published a proposed new regulation (38 CFR 3.812). Interested persons were given until January 23, 1984 to submit comments, suggestions, or objections to the proposed rule. Two comments were received, and the proposed rule has been amended as indicated below to

clarify the issue raised by the commentators.

Both commentators focused on the issue of eligibility in the case of a person who dies on active duty subsequent to August 12, 1981, because of a service-connected disability incurred or aggravated prior to August 13, 1981. Both commentators asserted that such deaths would meet the eligibility requirements of the law and that such eligibility should be clearly stated in the regulation.

Having reviewed the legislative history of section 156 of Pub. L. 97–377, we have concluded that such deaths do meet the eligibility requirements of the law and that such eligibility should be clearly stated in the regulation to remove any ambiguity. Accordingly, our proposal for 38 CFR 3.812(a)(1) has been amended to indicate that deaths subsequent to August 12, 1981, that resulted from service-connected disabilities incurred or aggravated prior to August 13, 1981, meet the eligibility requirements for this special benefit even when such deaths occur on active duty. Since the term "service-connected" as defined in 38 U.S.C. 101(16) includes a line of duty determination, we have deleted the last sentence of the proposed paragraph (a)(1) as redundant.

The Administrator hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), this regulation is exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604. The reason for this certification is that this regulation repeats the statutory eligibility requirements for the special allowance. No regulatory burdens would be imposed on small entities, and only claimants for the special allowance would be directly affected.

In accordance with Executive Order 12291, Federal Regulation, we have determined that this regulation is non-major for the following reasons: (1) It will not have an effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no affected Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: May 2, 1984.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3, Adjudication, is amended by adding new § 3.812 to read as follows:

§ 3.812 Special allowance payable under section 156 of Pub. L. 97–377.

The provisions of this section apply to the payment of a special allowance to certain surviving spouses and children of individuals who died on active duty prior to August 13, 1981, or who died as a result of a service-connected disability which was incurred or aggravated prior to August 13, 1981. This special allowance is a replacement for certain social security benefits which were either reduced or terminated by provisions of the Omnibus Budget Reconciliation Act of 1981.

(a) *Eligibility requirements.* (1) A determination must first be made that the person on whose earnings record the claim is based either died on active duty prior to August 13, 1981, or died as a result of a service-connected disability which was incurred or aggravated prior to August 13, 1981. For purposes of this determination, character of discharge is not a factor for consideration, and death on active duty subsequent to August 12, 1981, is qualifying provided that the death resulted from a service-connected disability which was incurred or aggravated prior to August 13, 1981.

(2) Once a favorable determination has been made under paragraph (a)(1) of this section, determinations as to the age, relationship and school attendance requirements contained in paragraphs (a)(1) and (b)(1) of section 156 of Pub. L. 97–377 will be made. In making these eligibility determinations the VA shall apply the provisions of the Social Security Act, and any regulations promulgated pursuant thereto, as in effect during the claimant's period of eligibility. Unless otherwise provided in this section, when issues are raised concerning eligibility or entitlement to this special allowance which cannot be appropriately resolved under the provisions of the Social Security Act, or the regulations promulgated pursuant thereto, the provisions of Title 38, Code of Federal Regulations, are for application.

(b) *Computation of payment rate.* (1) *Basic entitlement rate.* A basic entitlement rate will be computed for each eligible claimant in accordance with the provisions of subparagraphs (a)(2) and (b)(2) of section 156 of Pub. L. 97–377 using data to be provided by the Social Security Administration. This basic entitlement rate will then be used to compute the monthly payment rate as described in paragraphs (b)(2) to (b)(6) of this section.

(2) *Original or reopened awards to surviving spouses.* The monthly payment rate shall be equal to the basic entitlement rate increased by the overall average percentage (rounded to the nearest tenth of a percent) of each legislative increase in dependency and indemnity compensation rates under 38 U.S.C. 411 which became effective concurrently with or subsequent to the effective date of the earliest adjustment under section 215(i) of the Social Security Act that was disregarded in computing the basic entitlement rate.

(3) *Original and reopened awards to children.* The monthly payment rate shall be equal to the basic entitlement rate increased by the overall average percentage (rounded to the nearest tenth of a percent) of each legislative increase in the rates of educational assistance allowance under 38 U.S.C. 1731(b) which became effective concurrently with or subsequent to the effective date of the earliest adjustment under section 215(i) of the Social Security Act that was disregarded in computing the basic entitlement rate.

(4) *Subsequent legislative increases in rates.* The monthly rate of special allowance payable to a surviving spouse shall be increased by the same overall average percentage increase (rounded to the nearest tenth of a percent) and on the same effective date as any legislative increase in the rates payable under 38 U.S.C. 411. The monthly rate of special allowance payable to a child shall be increased by the same overall average percentage increase (rounded to the nearest tenth of a percent) and on the same effective date as any legislative increase in the rates payable under 38 U.S.C. 1731(b).

(5) *Amendment of awards.* Prompt action shall be taken to amend any award of this special allowance to conform with evidence indicating a change in basic eligibility, any basic entitlement rate, or any effective date previously determined. It is the claimant's responsibility to promptly notify the VA of any change in their status or employment which affects eligibility or entitlement.

(6) *Rounding of monthly rates.* Any monthly rate computed under the provisions of this paragraph, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(c) *Claimants not entitled to this special allowance.* The following are not entitled to this special allowance for the reasons indicated.

(1) Claimants eligible for death benefits under 38 U.S.C. 351. The deaths in such cases are not service-connected.

(2) Claimants eligible for death benefits under 38 U.S.C. 410(b). The deaths in such cases are not service-connected.

(3) Claimants eligible for benefits under 38 U.S.C. 412(a). The deceased persons in such cases were not fully and currently insured under the Social Security Act at the time of death.

(4) Claimants whose claims are based on an individual's service in:

(i) The Commonwealth Army of the Philippines while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including recognized guerrilla forces (see 38 U.S.C. 107),

(ii) The Philippine Scouts under section 14, Pub. L. 190, 79th Congress (see 38 U.S.C. 107),

(iii) The commissioned corps of the Public Health Service (specifically excluded by section 156 of Pub. L. 97–377), or

(iv) The National Oceanic and Atmospheric Administration (specifically excluded by section 156 of Pub. L. 97–377).

(d) *Appellate jurisdiction.* The VA shall have appellate jurisdiction of all determinations made in connection with this special allowance.

(e) *Claims—formal and informal.* Formal claims for this special allowance must be filed on a form prescribed by the Administrator of Veterans' Affairs. When informal claims or inquiries as to eligibility are received, the appropriate application form shall be provided. In such cases, the date of receipt of the informal claim or inquiry will be accepted as the date of claim for this special allowance if a formal claim on the prescribed form is received within one year from that date.

(f) *Retroactivity and effective dates.* (1) With respect to any claim which is received within one year of May 23, 1984 benefits shall be payable for all periods beginning on or after January 1, 1983, during which it is determined that the claimant would have been entitled to this special allowance had the claim been received on January 1, 1983.

(2) With respect to any claim which is received more than one year after May 23, 1984, but within 11 months following the month in which the claimant first became eligible for this special allowance, benefits shall be payable for all periods beginning on or after the first day of the month that the claimant first became eligible for this special allowance.

(3) With respect to any claim not filed within the time limits specified in paragraphs (f) (1) and (2) of this section, benefits shall be payable only for those periods of eligibility beginning on or after the first day of the month in which the claim is received.

(4) No payment of this special allowance may be made for any period prior to January 1, 1983.

(Pub L. 97–377, sec. 156)

[FR Doc. 84–13798 Filed 5–22–84; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2862, 6E1831/R667; PH–FRL 2592–3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish tolerances for residues of the pesticide chemicals methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, its alpha and beta isomers and dinoseb in or on certain raw agricultural commodities. These regulations to establish maximum permissible levels for residues of the pesticides in or on the commodities were requested, pursuant to petitions, by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on May 23, 1984.

ADDRESS: Written objections, identified by the document control number [PP 3E2862, 6E1831/R677], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section, RS&ERB (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued proposed rules published in the **Federal Register** which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted the following pesticide petitions (PP) proposing amendment of 40 CFR Part 180 by establishing tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

1. *PP 3E2862.* IR–4, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Alabama, Florida, Pennsylvania, Tennessee, and West Virginia. Published in the **Federal Register** of March 28, 1984 (49 FR 11854). Proposed to amend 40 CFR 180.157 by establishing a tolerance for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, its alpha and beta isomers in or on the raw agricultural commodity watercress at 1.5 parts per million (ppm). The petition was later amended to propose a tolerance at 2.0 ppm

2. *PP 6E1831.* IR–4, on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of New York, Vermont, and West Virginia. Published in the **Federal Register** of March 28, 1984 (49 FR 11853). Proposed to amend 40 CFR 180.281 by establishing tolerances for residues of the insecticide, fungicide, and herbicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) in or on the raw agricultural commodity forage grasses at 0.1 part per million (ppm). The petition was later amended to propose tolerances of 0.1 ppm dinoseb in or on the raw agricultural commodities pasture grasses and pasture grasses hay from application of phenol or its readily hydrolyzable salts, ammonium or sodium salt.

There were no comments or requests for referral to an advisory committee received in response to the proposed rules.

The data submitted in the petitions and other relevant material have been evaluated and discussed in the proposed rules.

Based on the information and data submitted, the Agency has determined that the establishment of the tolerances for residues of the pesticides will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by these regulations may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 14, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. Section 180.157 is amended by adding and alphabetically inserting the raw agricultural commodity watercress to read as follows:

§ 180.157 Methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Watercress	2.0
* * * * *	

2. Section 180.281 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b), to read as follows:

§ 180.281 Dinoseb; tolerances for residues.

(a) * * *

(b) Tolerances are established for residues of the herbicide, insecticide, and fungicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (ammonium salt or sodium salt) in or on the following raw agricultural commodities:

Commodities	Parts per million
Grasses, pasture	0.1
Grasses, pasture, hay	0.1

[FR Doc. 84-13792 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2912/R666; PH-FRL 2592-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Oxamyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide/nematocide oxamyl in or on the raw agricultural commodity pumpkins. This regulation, to establish a maximum permissible level for residues of oxamyl in or on pumpkin, was requested pursuant to a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on May 23, 1984.

ADDRESS: Written objections, identified by the document control number [PP 3E2912/R666], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of March 14, 1984 (49 FR 9587), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2912 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Florida and Puerto Rico proposing the establishment of a tolerance for residues of the pesticide oxamyl (methyl *N'*,*N'*-dimethyl-*N*-[(methylcarbamoyl)-oxy]-1-thiooxamimidate) in or on the raw agricultural commodity pumpkins at 2.0 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, filed written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. (Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 15, 1984

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.303 is amended by adding and alphabetically inserting the raw agricultural commodity pumpkins, to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Pumpkins	2.0
* * * * *	

[FR Doc. 84-13795 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[(OPP-300088A); PH-FRL 2592-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Isopropylbenzene Sulfonic Acid and Its Ammonium, Calcium, Magnesium, Potassium, Sodium, and Zinc Salts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts isopropylbenzene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts from the requirement of a tolerance when used as a surfactant in pesticide formulations. This regulation was requested by Witco Chemical Corporation.

EFFECTIVE DATE: Effective on May 23, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By Mail: N. Bhushan Mandava, Registration Suppport and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921-Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of March 14, 1984 (48 FR 9586), which announced that Witco Chemical Corporation, Houston, TX 77405, had requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for isopropylbenzene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts as surfactants and related adjuvants of surfactants in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 14, 1984..

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient isopropylbenzene sulfonic acid and its various salts, to read as follows:

180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Isopropylbenzene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.	.....	Surfactants and related adjuvants of surfactants.
* * * * *		

[FR Doc. 84-13796 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6538

[I-15309]

Idaho; Public Land Order No. 6425; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6425 of July 11, 1983.

EFFECTIVE DATE: June 21, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

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

The Land description in Public Land Order No. 6425 of July 11, 1983, in FR Doc. 83-19678 published at page 33297 in the issue of Thursday, July 21, 1983, is corrected to read as follows:

On page 33297 in the first column, under T. 12 N., R. 19 E., the line reading "sec. 13, SE¼NW¼, N½SE¼, N½SE¼, SW¼SE¼" should read, "sec. 13, SE¼NW¼, N½SW¼, N½SE¼, SW¼SE¼."

May 16, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-13805 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 15

Rules and Regulations Governing Federal Emergency Management Agency Special Facility and Grounds

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Correction to final rule.

In FR Doc. 84-12975 at page 20498, column 2 the **"EFFECTIVE DATE"** should read "May 15, 1984" rather than "June 14, 1984".

FOR FURTHER INFORMATION CONTACT: George W. Watson (202) 287-0376.

Dated: May 16, 1984.

George Jett,

General Counsel.

[FR Doc. 84-13820 Filed 5-22-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536 and 580

[General Order 13, Revised, Docket No. 84-24]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Interim rules and request for comments.

SUMMARY: The Commission is revising its foreign tariff filing rules to bring them into conformity with the Shipping Act of 1984 and contemporary tariff filing practices. These interim new rules modify and add to definitions contained in the existing tariff filing rules, amend rules governing the filing of intermodal tariffs, delete references to dual rate contracts, make provision for time/volume and related contracts and implement the statutory exemptions. Additionally the tariff rules reflect previously applicable interpretations of the Shipping Act, 1916, as they pertain to tariffs filed pursuant to the Shipping Act of 1984.

DATES: Interim rules effective June 18, 1984. Comments due on or before June 22, 1984.

ADDRESS: Comments (Original and twenty (20) copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523-5796.

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (1984 Act) was enacted on March 20, 1984, and becomes effective on June 18, 1984, except for sections 17 and 18 thereof which became effective on enactment. Section 17 authorizes the Federal Maritime Commission to prescribe rules and regulations and interim rules and regulations to carry out the 1984 Act.

The 1984 Act requires both substantive and technical modifications to the Commission's tariff filing regulations, contained in 46 CFR Part 536. These modifications require revision of various other provisions of the Commission's rules and interpretations, such as the Commission's Interpretations and Statements of Policy (46 CFR Part 530).

The Commission is, therefore, issuing these interim rules to implement the Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67 (46 U.S.C. app. 1701-1720). These rules are issued pursuant to section 17(b) of the 1984 Act in order that the Commission can perform its essential regulatory functions on and after June 18.

The Commission is requesting comments on these interim rules to assist it in developing final rules to supersede and, where necessary modify these interim rules. Accordingly, the public is provided with thirty days within which to comment on the interim rules, but, if anyone believes that there are serious problems created by these rules which should be addressed immediately, the Commision urges them to bring their concerns to the attention of the Commission, in writing, without prejudice to subsequently filing additional comments within the thirty day comment period.

The 1984 Act has made several substantial changes in the regulation of the oceanborne foreign commerce of the United States. The most substantive changes, insofar as they relate to tariff filing, involve through and exempt transportation, service and time/volume arrangements, loyalty contracts, penalty provisions and the statute of limitations for filing claims or complaints.

The filing of service contracts, time/volume contracts, time/revenue contracts is the subject of a separate rulemaking proceeding. Likewise, although this rule contains a definition of "loyalty contract," a rule pertaining to the use and filing of such "loyalty contracts" is the subject of a separate rulemaking proceeding. This proceeding will focus on the balance of the tariff filing rules.

The 1984 Act contains definitions for: common carrier, forest products, non-vessel-operating common carrier, ocean common carrier, person, shipment, shipper, through rate and through transportation. These definitions, as appropriate, are being added to the Commission's tariff filing rules.

Substantial modifications to the intermodal tariff filing rules have been made to accommodate the statutory scheme. Eliminated are any provisions which required a tariff to "breakout" or disclose the charge, rate or division for the inland transportation portion of a through intermodal or joint through rate or service. These proposals were previously advanced by the Commission in the now discontinued proceeding, Docket No. 84-3, *Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Intermodal Tariff Filing Requirements—Exemption From Certain Statutory Requirements and Amendment of Tariff Filing Regulations* (49 FR 7609, March 1, 1984), which should be referred to for further information.

The 1984 Act contains an exemption from tariff filing for cargo loaded and carried in bulk without mark or count. These provisions are identical to the exemption from tariff filing formerly contained in section 18(b)(1) of the Shipping Act, 1916 (1916 Act). The Commission has previously interpreted these provisions insofar as they apply to bulk cargo loaded into and carried in intermodal equipment (see 46 CFR 530.15). This interpretation has been incorporated into this rule.

Section 8(a)(1) of the 1984 Act expands the current tariff filing exemption for softwood lumber to include the broader category of forest products as defined in the statute and adds a new exemption for recyclable metal scrap, waste paper and paper waste. These changes have been incorporated into the rules.

The revised tariff filing rules also preserve previous exemptions granted from time to time by the Commission pursuant to section 35 of the 1916 Act. These exemptions were previously contained in § 536.1 and covered: foreign transshipped cargo (§ 536.1(a)); carriage of vehicles, passengers, buses and personal effects on vessels operated by the State of Alaska (§ 536.1(b)(1-2)); transportation of mail (§ 536.1(b)(3)); transportation by Incan Superior, Ltd. of cargo moving in railroad cars (§ 536.1(b)(4)); transportation by water of cargo moving in rail cars between British Columbia and United States ports and points (§ 536.1(b)(5)); transportation by water of cargo moving in bulk with count in rail cars between British Columbia, Canada and United States ports on Puget Sound (§ 563.1(b)(6)); transportation of used military household goods by non-vessel operating common carriers (§ 536.1(b)(7)); and controlled carriers when specific conditions are met (§ 536.1(d)). To these previous exemptions the Commission is proposing to add an exemption to permit points to be added to intermodal tariffs without providing the otherwise required thirty day notice. The new exemption will also be available to controlled carriers on a limited basis.

The Commission notes the similarity between sections 35 of the 1916 Act and section 16 of the 1984 Act. Section 16 contains all of the former criteria of

section 35 and adds the requirement that any exemption will not result in a "substantial reduction in competition." The 1984 Act criteria are met with respect to all of these exemptions. The removal of the requirement that carriers or conferences provide thirty days' notice prior to naming new intermodal points in their tariffs, will enable such carriers and conferences to promptly address changing transportation conditions without delay.

A number of technical modifications have been made in the tariff filing rules to conform them to either the new statutory provisions or to contemporary tariff filing practices. The modifications include: elimination of all references to temporary tariff amendments which have been abolished; elimination of the requirement for tariffs to contain a check sheet (a check sheet serves no regulatory purpose); deletion of the project rate provisions (they are now subsumed in either service or time/volume arrangements); and the elimination of any references to the 1916 Act. In addition, rules pertaining to the filing of per-container rates which were promulgated and subseqently suspended in Docket No. 81–50, *Per-Container Rates—Tariff Filing Requirements Applicable to Carriers and Conferences in the Foreign Commerce of the United States,* have been removed inasmuch as that proceeding has been discontinued.

This rule also reflects certain interpretations and clarifications contained in 46 CFR Part 530. The affected CFR provisions are: § 530.7 (carrier admission to a conference—new/initial rates); § 530.14 (disputes regarding the exercise of the right of independent action in tariff filing); and §530.15 (bulk cargo in intermodal equipment).

The 1984 Act also increases the time period for filing complaints or overcharge claims with the Commission from two to three years. These changes are also reflected in the rules.

A new § 580.91 has been added to display the Office of Management and Budget's clearance numbers for information collection requirements. These are currently displayed in tabular form in § 503.91 of Title 46, Code of Federal Regulations, but the new separate section should be convenient, especially after the part is redesignated.

The Commission has determined that this interim rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Commission certifies that this interim rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdications.

The collection of information requirements contained in paragraph 580.8 (b) and (c) of this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Maritime Commission.

List of Subjects in 46 CFR Parts 536 and 580

Cargo; Cargo vessels; Exports; Harbors; Imports; Maritime carriers; Rates and fares; Reporting and recordkeeping requirements; Water carriers; Water transportation.

For the reasons set out in the *Supplementary Information,* Part 536 of Title 46 of the Code of Federal Regulations is transferred to Subchapter D, redesignated, and amended as follows:

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

1. Part 536 of 46 CFR, Chapter IV, is redisignated as Part 580 and added to Subchapter D and all internal references are changed.

PART 580—[AMENDED]

2. In Part 580, revise the authority citation to read as follows and remove all other authority sections:

Authority: 5 U.S.C. 533; secs. 4, 5, 6, 8, 9, 10, 15, 16, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1703–1705, 1707, 1708, 1709, and 1714–1716).

3. Insert the word "common" before the word "carrier" or "carriers" wherever it appears in part 580.

§ 580.0 [Amended]

4. In § 580.0(a) remove "Shipping Act, 1916" and insert: "Shipping Act of 1984".

5. In § 580.0(b):

a. Remove "Section 18(b) of the Shipping Act", and insert "section 8 of the Shipping Act of 1984,";

b. Remove, "sections 14(b) and 18(c)" and insert "sections 9, 10 and 16";

c. Remove "reasonable" and insert "unreasonable"; and

d. Remove "Shipping Act sections 15, 16 and 17." and insert "Section 10 of the Shipping Act of 1984."

6. In § 580.0(c) remove "day the violation continues (46 U.S.C. 817 (b)(4), (b)(6))," and insert "violation unless the violation was willfully and knowingly committed, in which case the amount of civil penalty may not exceed $25,000 for each violation. Each day of a continuing violation constitutes a separate offense. Additionally, the Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months."

7. In § 580.1 redesignate paragraphs (a)–(d) as paragraphs (b)–(e) and add a new paragraph (a) to read as follows:

§ 580.1 Exemptions and exclusions.

(a) This part does not apply to bulk cargo, forest products, recyclable metal scrap, waste paper and paperwaste.

* * * * *

8. In § 580.1(b)(6) remove "Shipping Act, 1916" and insert "Shipping Act of 1984".

9. In § 580.1(d)(1)(iii) remove "Shipping Act section 18(b)" and insert "the Shipping Act of 1984".

10. In § 580.1(e)(1)(iii) remove "approved under section 15 of the Act."

11. Revise § 580.2 to read as follows:

§ 580.2 Definitions.

The following definitions of terms shall apply unless otherwise indicated by the context of this part.

(a) *Act.* The Shipping Act of 1984.

(b) *Bulk cargo.* Cargo that is loaded and carried in bulk without mark or count. Bulk cargo loaded into intermodal equipment is subject to mark and count and is therefore, subject to the tariff filing requirements of this part.

(c) *Class rates.* Rates applicable to all articles which have been grouped or "classified" together in a classification tariff or a classification section of a rate tariff.

(d) *Commodity rates.* Rates applying on a commodity or commodities specifically named or described in the tariff in which the rate or rates are published.

(e) *Common carrier.* A person holding itself out to the general public to provide transportation by water of passengers or

cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(f) *Conference.* An association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff; but the term does not include a joint service, consortium, pooling, sailing, or transshipment arrangement.

(g) *Controlled carrier.* An ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if:

(1) A majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(2) That government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

(h) *Forest products.* Forest products in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls.

(i) *Joint rates.* Rates or charges established by two or more common carriers for ocean transportation over the combined routes of such carriers.

(j) *Local rates.* Rates or charges for transportation over the route of a single common carrier (or any one common carrier participating in a conference tariff), the application of which is not contingent upon a prior or subsequent movement.

(k) *Loyalty contract.* A contract with an ocean common carrier or conference by which lower rates are obtained in exchange for a commitment of all or a fixed portion of a shipper's cargoes. A loyalty contract does not require a specific quantity of cargo to be shipped over a stated period of time, nor does it commit a common carrier or conference to a given or specific level of service or performance.

(l) *Non-vessel-operating common carrier.* A common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

(m) *Ocean common carrier.* A vessel-operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp.

(n) *Ocean freight forwarder.* A person in the United States that:

(1) Dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(2) Processes the documentation or performs related activities incident to those shipments.

(o) *Open rate.* A rate on a specified commodity or commodities over which a conference relinquishes or suspends its ratemaking authority, in whole or in part, thereby permitting each individual common carrier member of the conference to fix its own rates on such commodity or commodities.

(p) *Open for public inspection.* The maintenance of a complete and currrent set of the tariffs used by a common carrier, or to which it is a party, in each of its offices and those of its agent in any city where it transacts business involving such tariffs.

(q) *Person.* Includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country.

(r) *Proportional rates.* Rates or charges assessed by a common carrier for transportation services, the application of which are conditioned upon a prior or subsequent movement.

(s) *Shipment.* All of the cargo carried under the terms of a single bill of lading.

(t) *Shipper.* An owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(u) *Tariff.* A publication containing the actual rates, charges, classifications, rules, regulations, and practices of a common carrier or conference of carriers. For the purposes of this part, the term "practice" refers to those usages, customs or modes of operation which in any way affect, determine or change the transportation rates, charges or services provided by a common carrier, and, in the case of conferences, must be restricted to activities authorized by the basic conference agreement.

(v) *Tariff filing.* Any tariff, or modification thereto, which is received by the Commission as filed pursuant to these rules.

(w) *Tariff filing, Electronic.* The transmission of tariff filings to the Commission through the use of commercial data processing terminals. The data processing receiving terminal(s) are to be located in the Commission's Washington, D.C. offices. Tariff material filed electronically must conform to all the regulations applicable to permanent tariff filings, except as follows:

(1) Electronically filed tariff pages received from data processing terminals may be used for filing with the Commission; and

(2) Electronically filed tariff matter shall be accompanied by an electronically filed letter of transmittal.

(x) *Through rate.* The single amount charged by a common carrier in connection with through transportation.

(y) *Through transportation.* Continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port.

§ 580.3 [Amended]

12. In § 580.3(e) remove "except temporary filings as permitted hereinafter in § 580.10(c)(1),".

13. In § 580.3(f) remove "including temporary filings by mail pursuant to § 580.10(c)(1) of this part," and, "Provided, however, that temporary filings made by telegraph or cable pursuant to § 580.10(c)(1) need not be submitted in duplicate or triplicate" and remove the semicolon at the end of "triplicate" and insert a period.

14. In § 580.3(i) remove "section 18(b)" and insert "section 8(a)(1)".

15. In § 580.3(j) remove "section 18(b)" and insert "section 8(a)," and remove "approved" wherever it appears.

16. In § 580.3(j) remove the last sentence.

17. In § 580.3(l) remove "sections 14(b), 18(b), or 18(c) of".

§ 580.4 [Amended]

18. In § 580.4(e) remove "each vessel operating common carrier's" and insert, "the".

19. In § 580.4(e) remove "United States Shipping Act, 1916," and "Shipping Act Amendments of 1979, Pub. L. 96–25, 93 Stat. 71, and the regulations of the

Commission set forth in 46 CFR Part 552." and insert "Shipping Act of 1984."

20. Amend § 580.4(f) by removing "Check Sheet." and adding at the end of the paragraph, "Appendices of Essential Terms for Service Contracts/Time Volume Contracts."

§ 580.5 [Amended]

21. Amend § 580.5(a)(1) by removing "approved under section 15 of the Act," and in the third sentence removing "section 18(c)" and inserting "section 9".

22. Amend § 580.5(c)(2) by removing "United States Shipping Act, 1916," and "Shipping Act Amendments of 1979, Public Law 96–25, 93 Stat. 71, and the regulations of the Commission set forth in 46 CFR 552." and inserting "Shipping Act of 1984."

23. Remove § 580.5 (d)(13) and (d)(14).

24. In § 580.5, paragraph (d), redesignate (d)(15)–(d)(18) as paragraphs (d)(13)–(d)(16).

25. Redesignate § 580.5(d)(19) as § 580.5(d)(17) and amend as follows:

a. Revise the heading to read: *"Shippers requests, consultations and complaints."*

b. Remove "with § 527.6 of the Commission's rules," and insert "with the effective agreement's provisions,";

c. Add after "complaints," the phrase "and now they may engage in consultation under section 5(b)(6) of the Act."

26. Redesignate § 580.5(d)(20) as § 580.5(d)(18), and remove in the first sentence of the introductory text "two years" and insert "three years".

27. Amend § 580.5(d)(18)(i) by removing "section 22 of the Shipping Act, 1916 (46 U.S.C. 821)" and inserting "section 11(g) of the Shipping Act of 1984," in the first sentence, and by removing "two" and inserting "three," in the second sentence.

28. Amend § 580.5(d)(18)(ii) by removing "Shipping Act, 1916." and inserting "Shipping Act of 1984."

29. Amend § 580.5(e) by removing ", commencing with number 21." and inserting a period.

§ 580.6 [Amended]

30. Amend § 580.6(n) by removing "section 18(c) of the Shipping Act, 1916," and inserting "section 9 of the Shipping Act of 1984," in the last sentence.

31. Amend § 580.6(o) by removing the word "Temporary," and capitalizing "Special" in the introductory text.

32. Remove § 580.6(o)(2).

33. Revise § 580.8 to read as follows:

§ 580.8 Intermodal tariffs.

(a) *Definitions.* The following definitions shall apply for purposes of this section:

(1) *Contracting Carrier.* A carrier which performs part of a through intermodal service in the capacity of a subcontractor on behalf of and in the name of a common carrier which is subject to the Act.

(2) *Joint through intermodal rate.* A single charge jointly established by two or more carriers, one of which is a common carrier subject to the Act, for through transportation over the combined routes of such carriers, between (i) points in the United States and ports in a foreign country; (ii) points in the United States and points in a foreign country; or (iii) ports in the United States and points in a foreign country. Tariffs which name joint rates must also list the participating carriers.

(3) *Participating Carrier.* A carrier that holds itself out to perform a portion of a joint through intermodal service.

(4) *Through intermodal rate.* A single charge established by a common carrier(s) subject to the Act, which covers a through service, part of which is performed by a contracting carrier or carriers, for through transportation over the combined routes of such carriers, between (i) points in the United States and ports in a foreign country; (ii) points in the United States and points in a foreign country; or (iii) ports in the United States and points in a foreign country.

(5) *Through route.* An arrangement for the continuous carriage of goods between points of origin and destination either or both of which lie beyond port terminal areas.

(b) *Intermodal tariff filing requirements.* Every common carrier and conference subject to the Act, which establishes through intermodal rates and/or joint through intermodal rates, shall file tariffs stating all such rates and related charges, rules, regulations, privileges or facilities, granted or allowed. Such tariffs shall be filed and maintained in the manner set out in the Act, and in accordance with the rules of this part. Intermodal tariffs shall be filed in the name of the common carrier or conference subject to the Act. Intermodal tariffs shall be initially filed on thirty days' notice as provided by sections 8 or 9 of the Act, unless a shorter notice is permitted pursuant to special permission. In addition, such tariffs shall contain the following provisions:

(1) A notation on the Title Page that the publication contains through intermodal rates and/or joint through intermodal rates. Also, an identification of the modes of service, i.e., rail-water, water-motor, etc., shall be shown.

(2) A list, either on the Title Page or on an interior page referenced on the Title Page, of all ports or points to, from and between which the rates apply and the ports through which cargo originating or terminating in such places shall move. Each port or point served shall be described by its commonly used geographic name. When rates are established which apply from, to, or between all points within a named region; for example, a county, township, parish or province, such region must be identified with the state, province, and county in which the region is located.

(3) A contract of affreightment clearly setting forth through liability which is consistent with the holding out provided by the application of the rates and conditions of the tariff.

(4) In the case of joint through intermodal rates, the names of all participating carriers and a clear description of the services performed by such participating carriers which are included in the through rates. Points served by each participating carrier must be so specified.

(c) *Amendments to intermodal tariffs.* Common carriers and conferences of such carriers publishing amendments to intermodal tariffs which provide for new or initial joint through intermodal rates and/or through intermodal rates are exempt from the 30 day filing notice requirements of section 8 or 9 of the Shipping Act of 1984. *Provided, however,* That amendments filed pursuant to this exemption shall not become effective earlier than upon publication and filing or some time interval less than 30 days. *Provided,* further that amendments filed by controlled carriers, subject to section 9, Shipping Act of 1984 may be filed only when such amendments provide for rates which meet but do not go below those previously established by non-controlled carriers. Each amendment filed by a controlled carrier under authority of this exemption shall bear the following notation: "Filed pursuant to 46 CFR 580.8(c)."

§ 580.10 [Amended]

34. Amend § 580.10(a)(2) by removing its second sentence.

35. Amend § 580.10(a)(3) by removing "section 18(c) of the Shipping Act, 1916" in the last sentence and inserting "section 9 of the Shipping Act of 1984".

36. Amend § 580.10(b)(4) by removing "Section 18(b) and 18(c)" and inserting "sections 8 and 9".

37. Remove § 580.10(b)(10).

38. Amend § 580.10 (d)(1) and (d)(2) in the introductory text by removing "sections 18(b)a, 18(c) and 14b of".

39. Remove § 580.12.

§ 580.15 [Amended.]

40. Amend § 580.15(a) by removing in the first sentence, "section 18(b)," and inserting "section 8(d)".

41. Amend § 580.15(a) by removing, in the second sentence "section 18(c)(3)," and inserting "section 9(c)".

42. Add § 580.91 to read as follows:

§ 580.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. The Commission intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

Section	Current OMB control no.
580.3	3072-0009
580.8 through 580.15	3072-0009

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-13827 Filed 5-18-84; 3:47 pm]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket No. 83-975; FCC 84-217]

Amendment of the Commission's Rules Regarding Confidential Treatment of Information Submitted to the Commission

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document modifies the standard by which the Commission grants confidential status to certain documents submitted to the Commission. Our previous standard required a demonstration of "clear and convincing" evidence that the documents were confidential. This action modifies the relevant standard to the less rigorous "preponderance of the evidence" test. The "preponderance of the evidence" test is more in line with other agency requirements, and is the ordinary civil standard of proof.

EFFECTIVE DATE: These rules become effective on June 25, 1984.

FOR FURTHER INFORMATION CONTACT: Randy W. Thomas, Office of General Counsel, Federal Comunications Commission, Washington, D.C. 20554, (202) 632–6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Freedom of Information.

Report and Order

In the matter of amendment of the Commission's rules regarding confidential treatment of information submitted to the Commission (Gen. Docket No. 83-975).

Adopted: May 14, 1984.

Released: May 18, 1984.

By the Commission.

I. Introduction

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 43353–43355, published September 23, 1983, and the comments filed in response thereto. In the *Notice*, the Commission sought comment on whether the standard for according confidential treatment to documents submitted to the agency should be revised. Documents that are not deemed to be confidential are generally subject to the mandatory disclosure provisions of the Freedom of Information Act. ("FOIA"). 5 U.S.C. 552(b)(4).[1]

2. The standard that has governed the Commission's evaluation of requests for confidentiality of documents from 1975 to the present is articulated in terms of a "clear and convincing" test. 47 CFR 0.459(d). The Commission Bureau or Office Chief that receives such requests has delegated authority to make the initial determination regarding confidentiality requests. *Id.* If the submitter is dissatisfied with the Bureau Chief's initial determination, Commission review may be sought. *See* 47 CFR 1.115.

3. We have carefully reviewed the comments and reply comments filed in this proceeding. The comments indicate that a change in our confidentiality standard is warranted. Consequently, based upon our analysis of the comments and our own independent review of the issues raised in the *Notice*, we have determined to modify our confidentiality standard as set forth below.

II. Comments

4. Nine comments and four reply comments were received in response to our Notice.[2] All of the participants favored relaxation of the current "clear and convincing" standard now governing the granting of confidential status for documents submitted to the Commission. In addition, the majority of commenters favored the specific proposal in the *Notice* to change the confidentiality test from "clear and convincing" to "preponderance of the evidence." [3]

5. A variety of reasons were advanced in the comments for adopting a standard less rigorous than the clear and convincing test. Initially, it was recognized that a relaxation of the confidentiality standard would encourage a free flow of information to the Commission from those it regulates.[4] Several commenters, including ASC at 3–4; American Telephone and Telegraph Co. ("AT&T") at 2–3; AT&T Reply at 3; CONTEL at 5; GTE at 2; and Pepper at 3 indicated that by easing the confidentiality standard, competitively significant information could be protected from competitors who would seek to exploit such information. A final compelling reason for relaxation of the current standard is that it is more rigorous than the confidentiality standard used by other federal agencies. Comments of AT&T at 4–5; ASC at 4; CONTEL at 1–2; NAB at 3–4; Pepper at 3; and Southwestern at 3.

6. Both AT&T and NAB endorsed the reexamination of our confidentiality standard. Those commenters, however, suggested that the Commission's proposal did not go far enough. NAB proposed the use of a "substantial evidence"test for granting confidentiality to documents. NAB at 4–5. Although NAB did not elaborate on the specific operation of their proposal, the suggestion was made that the "substantial evidence" test would be similar to the Environmental Protection Agency's requirement of a "satisfactory showing" for non-disclosure.[5]

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[1] Exemption 4 of the FOIA generally allows the withholding of "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4).

[2] *See* Appendix A for a list of participants in this proceeding.

[3] Initial comments of American Broadcasting Companies, Inc. ("ABC"); American Satellite Company ("ASC"); Continental Telecom, Inc. ("CONTEL"); GTE Service Corporation ("GTE"); National Radio Broadcasters Association ("NRBA"); Pepper, Hamilton & Scheetz ("Pepper"); and Southwestern Bell Telephone Company ("Southwestern").

[4] Comments of ABC at 2–3 (citing *9 to 5 Organization for Women Office Workers* v. *Board of Governors*. 551 F. Supp. 1006, 1010 (D. Mass. 1982); CONTEL at 5; GTE at 2; NRBA at 3; National Association of Broadcasters ("NAB") at 2.

[5] NAB at 4. The applicable EPA regulation is codified at 40 CFR 2.208.

7. AT&T received support in the reply comments for its proposal.[6] Essentially, AT&T proposed the adoption of a good faith test for granting confidentiality. Specifically, AT&T proposed that the Commission grant confidentiality if a submitter of information makes a good faith request and:

—indicates the materials are confidential;
—reasonably segregates nonconfidential from confidential material;
—places a proprietary mark on the materials; and
—declares that such information is not publicly available.

AT&T at 7.

8. It is asserted by AT&T that the Commission should grant confidentiality upon a good faith request because the confidential nature of documents changes over time, resources of both the agency and submitter would be conserved and a specific analysis of the confidentiality request need not be made until a FOIA request is received.

9. Moreover, AT&T argues that the "preponderance of the evidence" standard is inappropriate because it presupposes an adversarial context between antagonistic parties. AT&T correctly points out that FOIA confidentiality requests are not generally decided in an adversarial context.

10. As an alternative to its good faith proposal, AT&T proposed the use of a *prima facie* standard, which would require a substantiation at the time of submission of information that in the Commission's judgment would likely withstand a court test. AT&T comments at 9.

III. Analysis and Discussion

11. On the basis of the record before us, we are convinced that a change in our standard for granting confidential treatment to documents is warranted. It appears that our current standard is unnecessarily high, inconsistent with other agency standards, stricter than the ordinary civil standard of proof[7] and may present a disincentive for the free flow of information between industry and government.

12. Based upon the record before us, we believe that the public interest will be served by adopting a "preponderance of the evidence" test for granting confidentiality to documents submitted to the Commission. Although AT&T's proposal for a good faith test is appealing, we find it impractical because of the administrative burden it would place on the Commission. Under AT&T's proposal, the Commission would have to go back to the submitter of information after a FOIA request has been filed and, within the FOIA ten working day time frame,[8] obtain the justification for continuing the confidential status of the information. Based upon our experience in responding to FOIA requests, the ten working day period would provide insufficient time to contact the submitter of information and formulate a reply to the FOIA requestor.

13. Similiarly, we find AT&T's alternative proposal—the *prima facie* test—and NAB's substantial evidence test to be impractical. In order to respond to FOIA requests within ten working days,[9] we believe it is necessary to require a preponderance of the evidence showing justifying confidential treatment at the time documents are submitted to the Commission.[10] Consequently, although we recognize that the confidential nature of certain information may change over time, we believe a confidentiality substantiation should be submitted with the information and retained in the files. As we develop experience with the new "preponderance of the evidence" confidentiality standard, we may, of course, revisit the issue to determine if further relaxation of the standard is warranted.

14. Finally, as both ABC and AT&T correctly point out, Rule 0.459(e) is not at issue in this proceeding. That Rule provides that if information is submitted voluntarily (absent a Commission directive) to the Commission, the submitter may request that the information be returned if the request for confidentiality is denied. 47 CFR 0.459(e).

IV. Conclusion

15. As explained above, we believe that the modification of the confidentiality standard is in the public interest. By adopting the less restrictive "preponderance of the evidence" standard, we hope to encourage the free flow of information to the Commission while providing adequate safeguards to sensitive business data and preventing needless burdens on submitters of information.

16. Regulatory Flexibility Act—Final Analysis. The rule change effected herein is appropriate in view of the record developed in this proceeding. The less restrictive "preponderance of the evidence" standrard for granting confidentiality will serve the public interest in a number of beneficial ways. Small business entities should find that this rule change is beneficial because it will make it easier to acquire confidential treatment for information submitted to the Commission.

17. Two comments were received that directly addressed the initial regulatory flexibility analysis. NAB indicated that our initial flexibility analysis may have been flawed for failure to include alternative proposals such as their "substantial evidence" proposal. Another commenter, Southwestern Bell, indicated that our regulatory flexibility analysis was adequate. In any event, three alternatives to our initial proposal have been considered and evaluated. We have declined to implement those proposed alternatives because we consider them unworkable in view of the relatively short response deadlines imposed by the FOIA.

18. Accordingly, in view of the foregoing and pursuant to the authority contained in 47 U.S.C. 154(i), 154(j), and 303(r), and 5 U.S.C. 552, it is ordered that the action taken herein is effective June 25, 1984.

19. Contact Randy W. Thomas, Office of General Counsel, (202) 632-6990 for further information regarding this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Gen. Docket No. 83-975; Comments

1. American Broadcasting Companies, Inc.
2. American Satellite Company.
3. American Telephone & Telegraph Co.
4. Continental Telecom, Inc.
5. GTE Service Corporation.

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[6] *See* Reply Comments of CONTEL; Pacific Telephone and Telegraph Company and Bell Telephone Company of Nevada (filing jointly); and United Telelcommunications, Inc.

[7] The preponderance of the evidence standard is the traditional standard used in civil and administrative proceedings and is the one contemplated by the Administrative Procedure Act. *Steadman* v. *SEC*, 450 U.S. 91, 102-04 (1981); *Sea Island Broadcasting Corp.* v. *FCC*, 627 F. 2d 240, 243 (D.C. Cir. 1980).

[8] 5 U.S.C. 552(a)(6)(A)(i).

[9] An agency may take an additional period of time, not to exceed ten working days, only in unusual circumstances, such as when it is necessary to collect records from field facilities, search for and examine a voluminous amount of material, or consult with another interested agency. 5 U.S.C. 552(a)(6)(B)(i)—(iii).

[10] The preponderance of evidence test is the relevant burden of proof that the Government must satisfy in 5 U.S.C. 552(b)(4) litigation to show that the withheld information is indeed confidential. *9 to 5 Organization for Women Office Workers* v. *Board of Governors*, 551 F. Supp. 1006, 1008 (D. Mass. 1982), *vacated and remanded on other grounds*, 721 F. 2d 1 (1983); *Doherty* v. *FTC*, 1981-1 Trade Cases (CCH) ¶64, 117 (D.D.C. June 24, 1981); *Braintree Elec. Light Dept.* v. *Dept. of Energy*, 494 F. Supp. 287, 289 (D.D.C. 1980).

6. National Association of Broadcasters.
7. National Radio Broadcasters Association.
8. Pepper, Hamiltion & Scheetz.
9. Southwestern Bell Telephone Company.

Reply Comments

1. American Telephone & Telegraph Co.
2. Continental Telecom, Inc.
3. Pacific Telephone and Telegraph Company and Bell Telephone Company of Nevada (filing jointly).
4. United Telecommunications, Inc.

Appendix B

Rule Revision

PART 0—COMMISSION ORGANIZATION

Subpart C—General Information

1. In § 0.459, paragraph (d) is revised to read as follows:

§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

* * * * *

(d) Requests which comply with the requirements of paragraphs (a) and (b) of this section will be acted on by the appropriate Bureau or Office Chief, who is directed to grant the request if it presents by a preponderance of the evidence a case for non-disclosure consistent with the provisions of the Freedom of Information Act, 5 U.S.C. 552. * * *

[FR Doc. 84-13815 Filed 5-22-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 68

[CC Docket No. 81-216; FCC 84-182; RM-2845, 2930, et al.]

Petitions Seeking Amendment Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Network and Notice of Inquiry Into Standards for Inclusion of One and Two-Line Business and Residential Premises Wiring and Party-Line Service

AGENCY: Federal Communications Commission.

ACTION: First report and order.

SUMMARY: This action adopts a program under which one and two-line (non-system) telephone premises wiring may be provided and directly connected to the nationwide telephone network by entities other than telephone companies. It also adopts a definition of the "demarcation point" where customer-owned wiring interconnects with telephone company wiring and where the respective responsibilities are divided. This action is necessary to provide customers the option of installing their own non-system telephone wiring.

DATE: This order is effective August 21, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Fern J. Jarmulnek, Common Carrier Bureau, (202) 634-1682.

List of Subjects in 47 CFR Part 68

Telephone.

First Report and Order

In the matters of Petitions Seeking Amendment of Part 68 of the Commission's Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network and Notice of Inquiry into Standards for Inclusion of One and Two-Line Business and Residential Premises Wiring and Party Line Service in Part 68 of the Commission's Rules CC Docket No. 81-216, RM-2845, RM-2930, RM-3195, RM-3206, RM-3227, RM-3283, RM-3316, RM-3329, RM-3348, RM-3501, RM-3526, RM-3530, RM-4054.

Adopted: April 26, 1984.
Released: May 18, 1984.

I. Introduction

1. This *First Report and Order* adopts final rules pursuant to a *Second Notice of Proposed Rulemaking and Order* in CC Docket No. 81-216 (Second Notice), 92 FCC 2d 1 (1982), which requested final comment on proposed changes in Part 68 of the Commission's rules. The Commission's Part 68 program provides the technical and procedural standards under which telephone equipment, systems and apparatus (in the aggregate "premises equipment" or "CPE") may be directly connected to the nationwide network. Under current Part 68 rules, subscribers may install multi-line wiring [1] under the supervision of a properly authorized person or a professional engineer licensed in the jurisdiction where the wiring is installed.[2] The Second Notice proposed to expand Part 68 to permit the installation of business and residential one and two-line (non-system) customer-owned premises wiring (COPW).[3]

2. The Second Notice followed a *Notice of Proposed Rulemaking and Notice of Inquiry* in CC Docket No. 81-216, 85 FCC 2d 868 (1981) (First Notice), which requested, in its NOI portion, public comment on (1) whether Part 68, should be structured to accommodate one and two-line non-system wiring, and, if so, what kinds of institutional controls should be utilized, and (2) alternative vehicles for including party line service under Part 68.[4] Based on the comments received in response to the First Notice, the Second Notice proposed the inclusion on non-system wiring in Part 68, and suggested various standards to assure that non-system COPW does not cause harm to the network. The Second Notice also proposed a definition of the "demarcation point" at which telephone company facilities end and COPW begins. Finally, the Second Notice included our decision not to expand Part 68 to encompass party line service.[5]

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[1] Multi-line wiring refers to telephone wiring associated with private branch exchange (PBX) and key telephone systems, *i.e.*, system wiring. It involves three or more central office lines.

[2] *See* 47 CFR 68.215(c); Interstate and Foreign Message Toll Telephone Service (Third Report and Order), 67 FCC 2d 1255 (1978); Interstate and Foreign Message Toll Telephone Service (Memorandum Opinion and Order), 70 FCC 2d 1800 (1979).

[3] For purposes of discussion, we will refer to *all* premises wiring which is owned by the customer as COPW. COPW will then be classified as either system (multi-line) wiring or non-system (one and two-line) wiring. AT&T suggests in its comments that "CPW" (customer premises wiring) is a better term than "COPW" since the rules adopted in this proceeding are to apply equally to all customer premises wiring regardless of ownership. AT&T Comments at 2 n.*. To the contrary, however, the rules adopted here are to apply only to wiring *owned* by the customer. That is, customers who choose to augment existing non-system wiring or install entirely new non-system wiring will be able to do so under the rules set forth herein. One and two-line inside wiring is not deregulated, and thus remains subject to tariff if provided by the telephone company. As noted in the *Second Notice*, 92 FCC 2d at 31-32, this order does not preclude telephone companies from providing one and two-line premises wiring on a tariffed basis nor does it provide telephone subscribers with a right to purchase embedded one and two-line wiring. Thus, we believe that COPW is a more accurate description of the wiring at issue in this proceeding than is CPW. The deregulation of one and two-line premises wiring is being considered in Deregulation of Customer Premises Inside Wiring (Further Notice of Inquiry), CC Docket No. 79-105, 86 FCC 2d 885 (1981), and in proceedings at the state level. The Commission has recently detariffed new system wiring installed as part of a detariffed CPE system in Modifications to the Uniform System of Accounts, CC Docket No. 82-691, FCC 83-457 (released November 2, 1983).

[4] The NPRM portion of that proceeding sought public comment on a number of rulemaking petitions. Because the NOI portion dealt with issues linked to other proceedings and required expeditious resolution, the Second Notice focused on those issues only. 92 FCC 2d at 2. The matters raised in the NPRM portion will be considered in forthcoming orders.

[5] USITA, however, arguing that the Second Notice made no reference to COPW for party lines, but

Continued

3. Comments were filed by sixteen parties, representing telephone carriers, users and manufacturers.[6] All parties agree that one and two-line non-system wiring should be included in our Part 68 program and there is substantial agreement as to many of the specific proposals set forth in the Second Notice. In the discussion that follows, we will consider each such proposal as well as other suggestions offered by the commenting parties, in roughly the order discussed in the Second Notice.

II. Demarcation Point

A. Definition

4. As a preliminary matter, we invited parties to comment on our proposed definition of demarcation point—the exact point where telephone company facilities (and, thus telephone company responsibility) ends and COPW begins. We observed in the Second Notice that there likely is no single definition which would encompass the practices of all telephone companies in the country. We recognized that some definition is needed, however, to provide a legal point of demarcation between the network and COPW so that the Commission's initiatives in *Computer II*[7] and CC Docket Nos. 79–105 and 82–861, *supra* note 3, concerning the deregulation of inside wiring, may proceed in an orderly fashion. 92 FCC 2d at 8.

5. Our proposed definition was based on the fact that all telephone companies utilize protectors as a means to safeguard a subscriber's premises and the telephone network from atmospheric or other electrical discharges that may strike or be induced in outside telephone wire. The protector's usual location is at or near the point of entry of the telephone cable into the subscriber's premises, although specific location varies with local telephone company practices, building type and environmental factors. Relying on existing protector location practices, we designed a definition that was flexible enough to encompass all building types, including multi-unit premises, and all types of wiring, including multi-line wiring associated with PBXs and key systems. 92 FCC 2d at 9. In sum, we proposed to revise § 68.3(h) to read as follows:

> (h) *Interface or Demarcation Point:* The point of interconnection between telephone company communications facilities and equipment, protective apparatus or wiring at a subscriber's premises. The interface or demarcation point shall be located at the subscriber's side of telephone company's protector, or the equivalent thereof in cases where a protector is not employed, as provided under the local telephone company's (reasonable and nondiscriminatory) standard operating practices.[8]

We noted that the responsibility for proper grounding of the protector itself would remain with the telephone company, unless the subscriber rendered the grounding ineffective by his or her own faulty installation of wiring. *Id.*[9]

6. With the exception of NBFAA and PBFAA,[10] all commenting parties support locating the demarcation point on the subscriber's side of the telephone company's protector. Several parties, however, suggest clarifications and refinements to our proposed definition. New York, for example, notes that because demarcation point location is dependent upon the unique physical characteristics of each building, there may be some difficulty with our definition, which fixes the location at the subscriber's side of the protector. New York adds that this is particularly apparent in multi-unit buildings where the protector may be located in an equipment room but house riser and floor distribution cables[11] sometimes extend the telephone company's facilities to the subscriber's premises. To make clear that the demarcation point should be located somewhere *"on* the subscriber's side of the telephone company's protector or equivalent thereof," New York suggests substituting the word "on" for "at" in the second sentence of the proposed definition. New York Comments at 3–5. AT&T concurs with this suggestion. AT&T Reply at 3 n. * * *.

7. Although we do not believe that the definition, as proposed, requires that the demarcation point be located virtually contiguous to the protector, we believe that changing the word "at" to "on" would serve to make this more clear. The word "at" may carry an implication that the demarcation point must be located in close proximity to the protector or at the protector itself, whereas "on" appears to connote better the flexibility to locate the demarcation point somewhere on the subscriber's side of the protector. To avoid possible confusion that the demarcation point must be located adjacent to the protector, although we suggest that in most cases involving new wiring this indeed would be the case, we will adopt New York's proposal.

8. GTE and UTS recommend that the word "network" be added in front of "interface" so that the caption would read "Network Interface or Demarcation Point." The parties reason that there are many interfaces at a subscriber's premises, such as a CPE to COPW interface and an equipment-to-equipment interface, and the suggested modification would help to distinguish the COPW-telephone network interface from others GTE Comments at 4; UTS Comments at 3. AT&T states that it does

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only to terminal equipment for party lines, urges that the rules for non-system wiring permit party line subscribers to install their own premises wiring. USITA Comments at 7–8. GTE agrees. GTE Reply at 22–23. These proposals will be rejected. The same reasons which led us to conclude that CPE for party lines should not be included in Part 68 apply equally to COPW for party lines. *See* 92 FCC 2d at 37. Moreover, because COPW is now encompassed by Part 68, and Part 68 does not apply to party line service, the rules we adopt herein cannot be applicable to party line COPW. As indicated in the Second Notice, we will leave matters involving party line service to local telephone companies and state regulatory commissions. 92 FCC 2d at 39–40.

[6] Comments were filed by the Bell Operating Companies and the American Telephone and Telegraph Company (AT&T), Association of American Railroads (AAR), People of the State of California and the Public Utilities Commission of California (California), Colorado Communications Services, Inc. (CCS), Federal Executive Agencies (FEA), GTE Service Corporation (GTE), Independent Data Communications Manufacturers Association (IDCMA), Insulated Cable Engineers Association, Inc. (ICEA), National Burglar and Fire Alarm Association (NBFAA), New York State Department of Public Service (New York), North American Telephone Association (NATA), Pennsylvania Burglar and Fire Alarm Association (PBFAA), Rural Electrification Administration (REA), County of Riverside, California, Department of Communications (Riverside), United States Independent Telephone Association (USITA), United Telephone System, Inc. (UTS), and Utilities Telecommunications Council (UTC). AT&T, California, FEA, GTE, IDCMA, NATA, and Northern Telecom, Inc. filed reply comments. (Subsequent to the filing of their comments, the Bell System Operating Companies were divested from AT&T.) In addition, we received numerous letters from various burglar and fire alarm associations and alarm companies.

[7] Second Computer Inquiry, 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer & Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[8] To add clarity, UTS and GTE suggest that we include a definition of "premises" in § 68.3 UTS Comments at 3–4; GTE Reply at 23. We believe this unnecessary in view of the definition of demarcation point we adopt herein. We note that in the interstate telephone tariffs, the term "premises" denotes a building or buildings on continuous property [except railroad rights of way, etc.] not separated by a public thoroughfare. *See* AT&T Communications Tariff FCC No. 263, Section 2.5

[9] This definition presumes that the telephone company will provide only wire and associated installation devices on its side of the demarcation point within the customer's premises.

[10] The positions of NBFAA and PBFAA are discussed and rejected at paras. 15–18 *infra*.

[11] House risers are the vertical cables which run from the outside plant terminal up through various floors of the building; floor distribution cables are horizontal cables which run from the distribution box or closet on each floor to the individual units.

not oppose this modification. AT&T Reply at 5.

9. It is not clear that other interfaces could be confused with the one intended by the rule. We believe the term "network" is implicit in our proposed definition of "interface." We are amenable to the commenters' proposal, however, since it may, as the parties claim, more accurately identify the relevant "interface" as the point at which COPW and telephone company communications facilities interconnect. Accordingly, we will adopt this suggestion.

B. Multi-Unit Buildings

10. As recognized in the Second Notice, multi-unit buildings present peculiar definitional difficulties because the protector may be located in an equipment room, or each unit may be separately served, either from a common point or independently, depending on the characteristics of the structure itself. 92 FCC 2d at 9. Based on our belief that the most practical and flexible solution to the problem of defining the demarcation point is to develop a uniform definition broad enough to encompass all building types—including multi-unit buildings—we proposed the definition set forth in the Second Notice. Several parties express concern that this definition may not deal adequately with the unique situations faced in multi-unit buildings.

11. UTS, for example, asserts that by allowing the demarcation point in multi-unit buildings to be located either near the protector or at each unit, the possibility exists that a subscriber in a multi-unit building may be unable to obtain tariffed telephone company service if the building owner fails to provide premises wiring. To ensure subscribers of access to tariffed telephone company-provided service, UTS suggests that the definition of demarcation point include a provision requiring the telephone company to offer network service to those requesting it on a reasonable and non-discriminatory basis in multi-unit buildings. UTS Comments at 2–3. IDCMA, apparently under the assumption that the demarcation point must be located adjacent to the protector, also asserts that our proposed definition may isolate the subscriber from the telephone network. Arguing that it is not appropriate to assign to the subscriber the responsibility for the inside wiring between his or her premises and the protector or to permit the carrier to terminate its service somewhere short of the subscriber's premises, IDCMA urges that we should define the demarcation point for multi-unit buildings *inside* each unit, at a point specified by the subscriber. IDCMA Comments at 4. NATA asserts that in multi-unit buildings there is plant on the subscriber side of the protector which should be recognized as part of the regulated telephone network. NATA reasons that the demarcation point should therefore be at the point where the telephone line enters each premises, rather than at the protector, unless the building owner chooses otherwise. NATA Comments at 14–15. California, for its part, argues that residents should not have ready access to the interior wiring which serves other residents, and therefore that the demarcation point for multi-unit buildings should be inside the premises of each unit. California Comments at 3.

12. AT&T and GTE asserts, on the other hand, that our proposed definition is appropriate for all building types. AT&T Comments at 6; GTE Comments at 3. GTE suggests that the telephone company should be allowed flexibility in determining the location of the demarcation point anywhere between the protector and a standard jack in a multi-unit building. GTE Reply at 10. GTE also suggests that we expressly affirm our intent not to allow third party ownership of risers and house cable to limit access to the network. GTE Reply at 14. In addition, AAR supports our definition as proposed. AAR Comments at 2.

13. Initially, we note that our definition is flexible enough to allow the demarcation point to be located near the common building protector or inside each individual unit, in accordance with the local telephone company's standard operating procedures. Thus, commenters' fears that subscribers will be isolated from the network, based upon the assumption that telephone company facilities must end at the protector, are unfounded. The concern of UTS and California in urging a demarcation point inside each individual unit also appears unwarranted. UTS reasons that it is inappropriate to assign the responsibility for house risers and cable which are outside the control of the subscribers to those subscribers, while California asserts that residents should not have access to interior wiring which serves other residents. Both these concerns seem to rest on the assumption that if the demarcation point is located near the common building protector, rather than in each unit, the responsibility for and access to house risers and cable will generally be with individual tenants. To the contrary, this responsibility and access will generally rest with the building owner, who will own the risers and distribution cables. Further, we see no greater likelihood of illicit access to others' lines where the demarcation points are located together in, for example, a building basement. In most buildings today, subscribers telephone lines are located on cross-connect panels in telephone-company controlled cabinets in building basements. Access to these cross-connect panels or common demarcation points will be limited to the telephone company and the building owner, who owns the cable.

14. We recognize, however, that in multi-unit buildings in which riser cable and loop distribution facilities are under the control of the building owner, troublesome issues involving the terms and conditions of telephone network access may develop. For example, a tenant (or condominium owner) might encounter excessive delay when seeking installation or relocation of a jack, or might require circuit conditioning not possible with existing building and riser distribution cables. As an independent entity not subject to regulatory scrutiny, a building owner generally is not under a legal duty to respond to such tenant requests. This matter may be exacerbated upon tenancy or building ownership succession, where successors or assignees could be burdened with unforseen restrictions on their use of cables and distribution facilities. Our overriding concern is to permit multi-unit building tenants direct access to the full range of wireline communications services generally available. We believe that in some situations local or, where appropriate, federal regulatory oversight could be invoked to ensure that tenants are offered direct access to the telephone network at a demarcation point located in their own premises (as opposed to a demarcation point near the common protector). In this regard, we note that the rules and policies we set forth here do not prohibit state regulatory agencies from establishing terms and conditions by which local telephone companies may or must install riser and distribution facilities to serve tenants directly in multi-unit buildings.[12]

[12] The state's broad power to impose appropriate restrictions upon an owner's use of property was recognized by the United States Supreme Court in Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982), where the Court upheld that portion of a New York statute which required a landlord to permit a cable television franchisee to install cable facilities on the landlord's property. The Court held, however, that the physical occupation of the building by the cable facilities constituted a taking for which the landlord was entitled to just compensation under the fifth and fourteenth amendments of the United States Constitution.

15. In conclusion, we see no reason at this time to mandate that the demarcation point be located only inside each unit of multi-unit buildings. We will not preclude the multi-unit building owner and the telephone company from agreeing to locate the demarcation point for all building units at a common location near the protector, nor will we foreclose tenants from receiving service via landlord controlled cable.[13] And, as indicated, should problems arise in multi-unit buildings in which riser cable and floor distribution facilities are under the landlord's control, local or federal regulatory oversight may be invoked. We reserve the right to revisit these matters, however, upon a showing that telephone service to subscribers in multi-unit buildings is restricted or impaired by our decisions herein.

C. Access to the Protector

16. Our demarcation point proposal provides that wiring and grounding at the protector are the telephone company's responsibility, unless a COPW installer renders the grounding ineffective by faulty wiring installation. 92 FCC 2d at 9–10. This is consistent with our regulatory intent to bifurcate responsibility at a demarcation point located on the subscriber's side of the protector and to prevent damage to the protector and potential network harm. With the exception of NBFAA and PBFAA, no party takes issue with this assignment of responsibility. Indeed, California, which had earlier advocated a demarcation point at the protector, comments that:

> [I]f the protector is the demarcation point * * * customer[s] * * * might engage in wiring activity or testing which results in the making or breaking of hardwire connections at the protector. If customers are permitted such access, the utility cannot be responsible for the integrity of the protector and its associated grounding. [California Comments at 2].

GTE, AT&T and UTS also support assigning to telephone companies the exclusive responsibility for protectors and grounding. GTE, in fact, urges us to modify our proposed rules to state expressly this proposition. GTE Comments at 5–6; UTS Comments at 4; AT&T Reply at 7.

17. NBFAA, a nationwide association of alarm companies, takes issue with this. The transmission of most security alarm systems to central monitoring systems is through the telephone line. These alarm systems are connected to the network by an alarm jack, such as the RJ31X jack presently used, which is installed between the protector and the first telephone terminal. The alarm equipment will preempt use of the telephone line and, depending on the alarm system, will allow a pre-programmed number to be dialed and/or will set off a local alarm. NBFAA asserts that because of "the failure and the inability of the utilities to install [alarm] jacks in a timely manner" and "the consistent inability of telephone company installers to properly install alarm jacks," the subscriber or installer should be permitted to wire alarm jacks directly onto the protector.[14] Thus, NBFAA contends that the protector itself should be the demarcation point. NBFAA Comments at 3. It further argues that the utilities' proposal to allow subscribers to connect their own alarm jacks provided that there is an intervening telephone company-installed demarcation jack will not solve the aforementioned problems. NBFAA observes that alarm companies will still be dependent upon the utility to first visit the premises to install a standard demarcation jack, which, according to NBFAA, is an "overusage of equipment" creating greater potential for mistakes in installation. Moreover, NBFAA notes an alarm system is easier to disconnect and disable when connected through a plug and jack arrangement than when the alarm jack is connected directly to the protector. NBFAA Comments at 6–7. NBFAA submits that there is no hazard if a customer connects an alarm jack directly to the protector, that "at worst, the customer may disable his own telephone." NBFAA Comments at 7. The Pennsylvania Burglar and Fire Alarm Association (PBFAA) supports NBFAA's position and adds that another reason for permitting alarm companies to install RJ31X jacks directly to the protector is that telephone companies charge customers "excessive and unwarranted" rates for such installation. PBFAA Comments at 2, 3. California Reply at 2–3; GTE Reply at 5–9.

18. Both GTE and California respond that hardwiring alarm jacks to the protector is unjustified and could interfere with the operation of the protector. GTE disagrees with NBFAA's analysis of potential harm, stating that unauthorized access to the protector has, in fact, resulted in damage to the protector block and accidental interruption of service to other customers. GTE Reply at 8. California suggests that NBFAA's physical security concerns are best met by protecting an *indoor* modular interface device from tampering; GTE notes that it is just as easy to disable an alarm system by cutting a hardwired connection as it is to unplug a plug/jack connection.

19. We believe that much of NBFAA and PBFFA's concerns can be resolved without creating the risk of damage to the premises protector. Althouth we recognize that some burglar alarm company personnel may be qualified to hardwire alarm jacks directly to the protector, we do not believe that a broad authorization for all alarm company personnel to do so is warranted here. Contrary to NBFAA's allegations, the risks of damage extend beyond a particular subscriber's service to potential harm to others. Our proposal, advanced in the Second Notice and adopted below, would allow alarm companies to install their own alarm jacks to a plug adapter that is interposed between the demarcation point jack provided by the telephone company and the subscriber's plug and associated wiring.[15] This would eliminate the concern that alarm jacks may not be properly installed or installed at unreasonable rates by telephone companies. We are unconvinced that a plug and jack arrangement sufficiently increases the likelihood that the alarm system will be disabled or that it increases the potential for mistakes in installation so as to justify customer access to the protector. Nor do we believe that the undocumented allegations of delay created by requiring the telephone company to install the demarcation jack warrants disturbing the proposed delineation of responsibility. In the interest of preventing potential network harm, we agree with GTE's position, which tracks our proposal, that the demarcation point protector should remain solely the telephone company's responsibility. Accordingly, this concept will be included in § 68.213(b) of the rules:

> Responsibility for the protector (and its associated grounding) on the network side of the demarcation point rests with the telephone company, though the subscriber is responsible for consequences resulting from

[13] As for NATA's proposal that demarcation point location should be left to the building owner in multi-unit situations, we believe that it is sufficient to leave coordination of demarcation point location to the parties involved in accord with the "reasonable and non-discriminatory" operating practices of local telephone companies. *See* paras. 22–25 *infra*.

[14] This proposal directly relates to the issue of whether telephone-company installed standard jacks should be required at the demarcation point. We will limit our discussion here to the specific question of whether the demarcation point should be the protector itself. The demarcation jack requirement will be discussed below.

[15] RJ31X jacks are included as authorized connectors in Subpart F of Part 68 and thus may serve as the demarcation jack if installed by the telephone company.

erroneous wiring procedures conducted under his or her direction. Responsibility for wiring on the subscriber's side of the demarcation point (including any protector that may be installed as part of the premises wiring) purchased in-place or wholly or partially new, rests with the owner (or subsequent owner) of the wiring.[16]

Having established the responsibilities of the parties, we see no reason why telephone companies could not respond quickly to reasonable requests for service. If burglar alarm companies or subscribers experience what they believe are unreasonable delays, they may bring these to our attention by way of a complaint.

D. Protectors Required for Aerial COPW

20. In the Second Notice we stated that although responsibility for the demarcation point protector would remain with the telephone company, responsibility for any additional protectors which might be installed as part of the subscriber's premises wiring would rest with the subscriber. 92 FCC 2d at 9–10. The intent was to define the demarcation point as the end of telephone company responsibility. GTE urges, however, that we extend the telephone company's responsibility to any protectors required for one and two-line aerial COPW between buildings or structures on a single tract of property, whether or not separated by a public way.[17] GTE argues that the safety concerns which warrant assigning responsibility for entrance protectors and grounding to the telephone company apply equally to other protectors which may be required for non-system COPW. GTE Comments at 5. AT&T supports this proposal AT&T Reply at 7.

21. GTE's proposal conflicts with our intent to bifurcate responsibility at the demarcation point. Regardless of whether protectors for aerial wiring have been properly installed, the telephone company's protector on the network side of the demarcation point is designed to protect the network from certain hazardous voltages emanating from the subscriber's premises, such as high voltage lightening generated pulses on interbuilding wiring. Thus, we will reject GTE's proposal. Nevertheless, we believe it advisable to ensure that subscribers are aware that there are potential dangers attendant upon installation of aerial protectors and wiring. Therefore, we will add the following to the list of guidelines contained in the FCC publication for simple installations of one and two-line COPW:[18]

> Aerial wiring between buildings or structures on a single tract of property not separated by a public way may, by local regulation, require the installation of protectors and associated grounding. Improper installation of protectors or inadequate protectors may lead to potentially hazardous voltages entering a subscriber's premises. Local electrical code or National Electrical Code (in the absence of an applicable local code) provisions should be referred to before installing such wiring.

E. Coordinating Demarcation Point Location and Relocation

22. We stated in the Second Notice that coordination between subscribers and telephone companies in locating the demarcation point is not an acute or unworkable problem. 92 FCC 2d at 12. Thus, we did not set forth any specific coordination rules in our proposal; instead we left local telephone companies fully responsible for installing protectors and interface jacks in accordance with their reasonable and nondiscriminatory standard operating procedures, subject only to all applicable safety requirements under local tariffs or building codes. GTE, AT&T, and REA support the view that no detailed rules are necessary for coordination purposes. AT&T Comments at 7; GTE Comments at 6–7; REA Comments at 2. New York notes with approval that our demarcation point definition is broad enough to allow for necessary flexibility in the physical and electrical characteristics associated with most installations. New York Comments at 3.

23. However, as previously discussed, several parties urge that we require the demarcation point in multi-unit buildings to be located inside each individual unit. For its part, California seeks a definition that would require an *indoor* demarcation point in the vicinity of the protector for *all* building types, including single unit dwellings. California argues that an outdoor demarcation point consisting of a modular plug and jack would be subject to corrosion since there is no reasonably priced weatherproof protection for a modular connection at this time. California Comments at 2. GTE replies that we should not so limit flexibility in locating the demarcation point because adequate weatherproofing may be developed in the future. GTE Reply at 10. In addition, NATA expresses concern about leaving demarcation point location to the telephone company's "reasonable and nondiscriminatory" practices, asserting that "reasonable and nondiscriminatory" takes "strange twists in the marketplace." In support of this assertion, NATA submits a letter sent from General Telephone Company of the Midwest to an equipment vendor. The letter informed the vendor that when a customer buys equipment from a private individual or interconnect company GTE will provide the interfacing device at the protector or equivalent and will not run additional cable or inside wire to the key cabinet or PBX cabinet. In light of this telephone company policy, NATA urges that we require the demarcation point to be located at or on the subscriber's premises or within reasonable proximity thereto. NATA Reply at 10, 13. Finally, UTC and IDCMA urge that we state explicitly in our rule that relocation of the demarcation point must be mutually acceptable to the parties and that the cost of relocation requested by the telephone company be born solely by the telephone company. UTC Comments at 3–4; IDCMA Reply at 5–6.

24. Although we recognize that conflicts may occasionally occur between the telephone company and the subscriber in locating the demarcation point, as NATA points out, we do not believe that this warrants a change in our view that our demarcation point definition provides both the necessary location flexibility and subscriber protection. First, if a telephone company's practice in locating the demarcation point is unreasonable or discriminatory, the subscriber may avail himself of regulatory procedures. Moreover, as noted at para. 14 *supra*, state regulatory agencies are free to establish terms and conditions requiring local telephone companies to terminate network services at or on the subscriber's premises. We remain open to revisiting this matter, however, upon a showing that the flexibility provided by our definition is creating unworkable or widespread problems.

25. As discussed above, we do not believe that the demarcation point should be limited to locations inside each unit of a multi-unit building. We

[16] We recognize that in situations involving "special environmental conditions," such as are present with power substations, the protector may be owned by a telephone company subscriber, *i.e.*, the energy utility, rather than by the telephone company itself. *See* UTC Comments at 3. UTC recommends that in such situations the demarcation point be located at a point mutually agreed upon by the energy utility and the telephone company. *Id.* We believe that UTC's concern is already accommodated by our rule, which relies on the parties involved to coordinate demarcation point identification in accordance with local practices. *See* paras. 22–25 *infra*.

[17] GTE would not impose this requirement when system wiring is involved, reasoning that such wiring is installed by trained installers who are aware of the need for and routinely provide protectors on the subscriber's side of the demarcation point.

[18] *See* paras. 53–56 *infra*.

see even less reason to require an indoor demarcation jack in single-unit buildings, as California suggests. Such a requirement would prevent the demarcation point from being located outdoors, even when adequate weatherproofing is provided.[19] The UTC and IDCMA suggestion that relocation of the demarcation point be conditioned on being mutually acceptable to the parties is implicit in our proposed rule, which relies upon the parties involved to coordinate demarcation point identification. Although we recognize that a conflict may occasionally occur, our proposed Section 68.213(b) explicitly states that the telephone company may not discriminate in its treatment of demarcation point location or relocation. We believe this language is adequate to satisfy these commenters' concerns. As noted, should a telephone company's practice be discriminatory, the subscriber may seek relief. We believe that the further proposal that costs associated with telephone company-requested changes in demarcation location be borne by the telephone company is reasonable. However, the matter of such charges is properly left to state regulatory authorities. Accordingly, we will adapt Section 68.213(b) of the rules as set forth in the attached appendix.

F. Jack Requirement

26. In the Second Notice, we proposed that a standard jack be installed by the telephone company at the demarcation point for new COPW or when modifications or additions are made to existing premises wiring. We expressed the view that such a jack and plug arrangement would allow defective COPW to be disconnected quickly and easily from the network and would serve as a uniform and convenient testing point. We concluded that it would not be necessary to install such a jack when a subscriber purchases existing (in-place) wiring, however. We further noted that we would not forbid the telephone company from installing a jack for existing wiring without a direct charge to the customer, either upon sale of in-place wiring or as a matter of normal operating practice on service visits, nor would we forbid the telephone company from providing the subscriber with the option of having a jack installed by the telephone company for a charge. 92 FCC 2d at 14.

27. As noted at paras. 17–19 *supra*, NBFAA and PBFFA argue that subscribers should be permitted to install COPW directly onto the protector, without an interposing telephone company-installed demarcation jack. NBFAA argues that a requirement for a telephone company-installed standard jack at the demarcation point for new or modified wiring is unnecessary since such a jack is not a protective device which will prevent harm to the network. Both NBFAA and PBFFA further argue that if a telphone company-installed jack requirement is, in fact, promulgated, an exception should be made when alarm jacks are installed. GTE, AT&T and IDCMA disapprove of these proposals, while the other commenting parties support in general our proposal to require a demarcation jack for new or modified COPW.[20]

28. The jack we propose to be installed at the demarcation point would allow for quick troubleshooting by the telephone company, and would serve as a convenient subscriber test point. NBFAA and PBFAA have failed to present any compelling reasons for eliminating this requirement and the resulting benefits to the subscriber. In fact, the arguments advanced by NBFAA and PBFAA here were raised in the context of protector access and rejected.[21] The alternative suggestions to allow the subscriber to install alarm jacks as the demarcation jack should likewise be rejected since this will allow subscriber access to the protector, which we have found to create an unwarranted potential for harm.

29. Several other commenters suggest modifications and clarifications to our proposal. UTS, for example, recommends allowing use of an interface device that would be hardwired directly to COPW, but which would contain a switch for disconnection and a jack for testing. UTS proposes that Section 68.104(a), which currently limits the authorized means of connection to the telephone network to a standard plug and jack arrangement, be modified to permit any connection which contains a standard jack for testing purposes and provides an easy means of disconnection. UTS Comments at 4–5. GTE replies that this proposal should be rejected for two reasons: (1) Allowing variations from the standard means of connection will upset a uniform federal program; and (2) the device provides no benefits that cannot be achieved with a standard jack. GTE Reply at 23–24.

30. We believe that UTS's proposal would create unnecessary practical problems. Allowing variations from a standard means of connection would require a case-by-case determination as to whether such a device should be permitted. In short, we find the disruption in the administration of our program and resulting confusion is not justified. UTS has offered no benefits that its proposed interface device would provide that could not be achieved with a standard jack and plug. Indeed, as GTE points out, the device appears to be more costly than a simple jack because it contains a jack *and* a switch in an enclosure. GTE Reply at 23. If in the future we are presented with an interface device which provides greater benefits to the public, *e.g.*, is cheaper and of greater utility than a standard plug and jack arrangement, we remain open to an appropriate rulemaking petition to incorporate it under Part 68. This, however, does not preclude a network interface device that incorporates a standard jack for testing in conjunction with other weather resistant means of connection, if approved by the state public utility commission.

31. In the Second Notice, we also asked for comments regarding whether a jack should be required to be installed at the demarcation point when additions are made by a subscriber to existing wiring through an existing telephone company-installed jack.[22] GTE recomends that a telephone company-provided interface be installed at the demarcation point before modifications to existing premises wiring are undertaken, and suggests language to this effect be included in the rules. GTE Comments at 7–8. California and AT&T, on the other hand, argue that a jack should not be required at the demarcation point when a subscriber extends COPW from an existing utility-installed jack. California Reply at 1–2; AT&T Reply at 5–6.

[19] California's proposal seems to be based upon a fear that telephone companies will install "unweatherproofed" jacks outdoors. As noted in the Second Notice, however, any jacks installed outdoors must be housed in a waterproof enclosure. 92 FCC 2d at 14. Moreover, we doubt, and California has provided us with no reason to believe, that any telephone company would engage in the practice of installing unprotected or environmentally susceptible jacks or jack boxes merely to avoid the occasional need to access an indoor demarcation point.

[20] GTE Reply at 16; AT&T Reply at 11–14; IDCMA Comments at 5–6; REA Comments at 2; UTS Comments at 4–5; UTC Comments at 4.

[21] *See* para. 19 *supra*.

[22] As stated in the Second Notice, a subscriber who plugs a "connectorized" extension cord into an existing room or office jack is not distiguishable from one who merely plugs in a terminal device. Noting that neither situation warrants regulatory restriction, we concluded that a subscriber who uses extension cords in conjunction with existing premises wiring will be considered to have existing premises wiring only and will not be required to install a jack at the demarcation point. 92 FCC 2d at 15. No party has taken issue with this conclusion.

32. We agree that a jack near the protector need not be required as a condition precedent to additions through an existing telephone company-installed jack since the wiring standards we adopt herein and the ease of disconnection of the additional wiring offer adequate network protection. Of course, there would be no prohibition against the telephone company installing a demarcation point jack near the protector upon subscriber augmentation of existing wiring, provided that jack installation is a routine practice of the telephone company and there is no unreasonable delay to the subscriber by the practice.

33. We note that this specific issue is interrelated with CC Docket No. 79–105 concerning the deregulation of one and two-line inside wiring. The assumption underlying the comments of GTE, AT&T and California is that the demarcation point is located at or adjacent to the protector. Thus, their concern arises as to whether a jack is required to be installed at the demarcation point. As discussed at para. 7 *supra*, however, our definition is flexible enough to allow the demarcation point to be located anywhere between the protector and the first jack. Until (and if) one and two-line inside wiring is deregulated, which will in most cases require a demarcation point in the vicinity of the protector, there is no reason why an existing jack cannot serve as the demarcation jack. We recognize that this might have the effect of creating more than one demarcation point in a given premises. For example, if wiring is extended from several existing jacks, several demarcation points may exist. Such an apparent anomaly is not unworkable or necessarily inconsistent with our overall intent to identify the location of a network-COPW interface. Accordingly, our definition in § 68.3(h) of the rules will be understood to include the possibility of more than one demarcation point until CC Docket No. 79–105 is resolved.

III. Standards for One and Two-Line Premises Wiring Installations

34. Aside from the issue of demarcation point definition, the Second Notice requested comment on whether one and two-line wiring should be included in the Part 68 program and, if so, what standards should be adopted to ensure that no harm is caused to the network. Harm, as defined in § 68.3(g) of the rules, 47 U.S.C. 68.3(g), includes electrical hazards to the telephone company personnel, damage to telephone company equipment, malfunction of telephone company billing equipment, and degradation of services to persons other than the user of the subject terminal equipment, his calling or called party. The remainder of this *Order* will address the issues raised in this context.

A. Section 68.2. Scope

35. While all parties support the inclusion of one and two-line non-system COPW in Part 68, three parties suggest that we revise § 68.2, 47 CFR 68.2, *Scope*, to state explicitly that such COPW is included. New York Comments at 2–3; AT&T Comments, Appendix at 2; GTE Reply at 19.[23] No one opposes the proposal. In the interest of clarity we will add a new subsection (4) to § 68.2(a) that expressly mentions one and two-line non-system wiring.[24]

B. Merger

36. The Second Notice proposed to add a new Section 68.213 to Part 68 that would provide standards for the installation of unprotected one and two-line COPW.[25] Additionally, we sought comment on whether we should, in the alternative, alter the existing Part 68 rules for multi-line system wiring, 47 CFR 68.215, and merge them with regulations for non-system wiring. 92 FCC 2d at 21. Although some parties address this matter directly, most of the comments dealing with this issue do so in the context of whether installers' qualifications should be the same for both system and non-system wiring installations. The consensus is that system and non-system wiring should be treated differently under Part 68.[26]

37. AT&T, for example, asserts that one and two-line wiring and multi-line wiring installations are significantly different undertakings and should be treated differently under Part 68. More specifically, AT&T urges that we leave unchanged the existing regulatory scheme of Section 68.215, which, in short, permits system premises wiring to be installed under the supervision of either a person properly authorized by the equipment registrant, typically the manufacturer, or by a professional engineer licensed in the jurisdiction in which the installation is performed. AT&T observes that the requirement for a registrant-authorized supervisor harnesses the natural self-interest of registrants to assure that the network remains protected. AT&T Comments at 12. However, because terminal equipment designed for use in one and two-line services is registered and generally has no wiring "behind" it, AT&T reasons that the equipment manufacturer is not properly held accountable for risks of harm associated with non-system COPW. AT&T concludes that Part 68 accountability for non-system COPW "is best achieved through the customer because the customer is the only person that is in a position to remain continously responsible for the wiring." AT&T Comments at 15. GTE similarly states that the system wiring rules should remain without modification while separate rules are promulgated for non-system wiring. GTE Comments at 10. For its part, IDCMA recommends that we specifically note that the rules promulgated for non-system wiring are not intended to be associated in any way with system wiring. IDCMA Comments at 8. And, as indicated above, the commenters support different qualification requirements for installers of system and non-system wiring.[27]

38. We agree that system wiring is significantly more complex than non-system and therefore it is appropriate to treat such wiring differently under Part 68. System wiring often involves wiring fields that, if misrouted, may cause billing errors or network disruption. Moreover, cross-connect blocks and other system wiring are frequently located in areas where there is ready access to other communications and power cables that, if connected, might lead to harm to the network, as well as to telephone company personnel and third parties. In addition, system wiring generally involves a relatively complicated array of facility ordering codes, involving pin sequences that

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[23] In addition, AT&T suggests that the introduction of rules for non-system COPW necessitates a new "grandfather" provision to make clear that existing non-system wiring may remain connected to the network for its useful life without alteration. AT&T Comments, Appendix at 3. Because the rules adopted in this proceeding will not preclude telephone companies from continuing to offer non-system premises wiring on a tariffed basis, we do not believe that a grandfather provision is appropriate at this time.

[24] Similarly, we will amend § 68.1, Purpose, to state explicitly that COPW is included in Part 68. *See* Appendix.

[25] Protected one and two-line COPW is wiring which is located electrically behind registered (or grandfathered) terminal equipment or protective circuitry which assures that electrical contact between the wiring and commercial power wiring or earth ground will not result in hazardous voltage at the telephone network interface. Unprotected non-system wiring is all other non-system wiring. Because non-system wire will generally be purchased independent of the terminal equipment, most non-system installations will be encompassed by the Part 68 program.

[26] *See* AT&T Comments at 11–17; GTE Comments at 10; UTS Comments at 10; UTC Comments at 4–5; IDCMA Comments at 8; NATA Comments at 26–27; USITA Comments at 2–3.

[27] *See* paras. 40–43 *infra*.

must be correctly arranged to assure proper system function. Non-system wiring, on the other hand, usually is connected to the network by a simple plug at a well-insulated, safe location. In view of these factors, we agree that a different set of standards is appropriate. We also agree, as suggested in the Second Notice, that the existing rules for system wiring have proven effective and should not be modified.

39. To clarify this bifurcated framework, we will revise the caption of § 68.215 to read, "Installation of Other than 'Fully-Protected' System Premises Wiring." This revised caption will parallel the language in the caption of § 68.213 which will read, "Installation of Other than 'Full-Protected' Non-System Premises Wiring." It also should prevent any potential confusion as to which rules apply to which type of wiring. We will also adopt the following wiring definition in § 68.3:[28]

Non-System Premises Wiring: Wiring which is used with one and two-line business and residence services, located at the subscriber's premises.

(1) Fully Protected Non-System Premises Wiring. Non-system premises wiring which is electrically behind registered (or grandfathered) equipment or protective circuitry which assures that electrical contact between the wiring and commercial power wiring or earth ground will not result in hazardous voltages at the telephone network interface.

(2) Unprotected Non-System Premises Wiring: All other non-system premises wiring.[29]

C. Installers' Qualifications

40. We observed in the Second Notice that comments in response to our First Notices generally supported the proposition that the qualification requirements imposed on persons performing system wiring operations should not apply to installers of non-system wiring.[30] 92 FCC 2d at 23–24. We further noted that leaving the system wiring rules unchanged while dispensing with qualification requirements for one- and two-line wiring would create the anomalous situation of imposing such requirements where they may not be necessary as a practical matter, since system wiring will normally be performed by competent installers, while not imposing requirements where they might be better justified. 92 FCC 2d at 24.

41. Against this background, we proposed four options to determine who should be authorized to install one and two-line wiring. The first option would "umbrella" the licensing/qualification requirements of local electrical and building codes and state regulatory options for all forms or wiring, system and non-system. The second option would restrict untrained persons to certain types of wiring installations, *e.g.*, non-system surface wiring, in an effort to limit potential harm. The third option simply would continue to require certain qualifications for system wiring installation while not imposing those requirements for one- and two-line wiring. The fourth option would require that installers secure bonding to indemnify subscribers or carriers for improper wiring. 92 FCC 2d at 25–26.

42. Apparently, the anomaly that we noted in the Second Notice does not evoke the commenters' concern. GTE, New York, USITA, California, UTS and AT&T explicitly support Option 3, which would require certain qualifications for installations of system wiring but impose no qualifications for non-system wiring installations. These parties assert that telephone subscribers are capable of adequately installing non-system wiring without special training or qualifications and that we should "keep simple wiring simple" by avoiding unnecessary complications which would arise from licensing or competency requirements.[31] At the same time, these parties recognize that special qualifications are necessary to install system wiring properly and urge us to leave in place the requirements for installation supervisors. New York notes that Option 3 is very similar to the position adopted by the New York PSC in 1980, while California notes that it has had a good experience in allowing installation of one and two-line wiring by subscribers. New York Comments at 6; California Comments at 4. None of the other commenters oppose Option 3.[32]

43. In view of our preference to avoid unnecessary regulatory controls, the minimal potential dangers of adequate and properly installed non-system wire, and the consensus that untrained subscribers can properly install non-system wiring, we believe that no new regulatory infrastructure is necessary for non-system installers.[33] Non-system wiring is usually connected to the network by a simple plug and we believe that such installation will present no significant problems for telephone subscribers. System wiring, on the other hand, is significantly more complex and thus has greater potential of being improperly installed and causing network harm. We believe that the qualification requirements currently contained in Section 68.215(c) will continue to insure that system wiring installations are supervised only by those adequately trained to do so and that the network remains uncompromised. We will therefore adopt Option 3. A new § 68.213(c) regarding qualifications for installers of non-system wiring, as proposed in the Second Notice, is therefore unnecessary.[34]

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[28] The definition of "premises wiring" presently contained in § 68.3(t) refers to system premises wiring. To avoid any confusion, we will recaption the definition to read "System Premises Wiring" and will change the references to premises wiring in the subheadings to "system premises wiring." *See* Appendix.

[29] AT&T urges that we note in our definition of non-system wiring that passive devices used in wiring operations, such as connectors, blocks and jacks, are considered part of the COPW and are included in § 68.213. AT&T Comments, Appendix at 5. We are currently considering the deregulation of cords and other passive devices in RM-3227 in this docket. *See* First Notice, 85 FCC 2d at 879–880. Indeed, pending disposition of that rulemaking we have exempted extension cords and electrically transparent adapter boards from the registration program. Public Notice #20851, released Aug. 2, 1982. We therefore do not believe it appropriate to act upon AT&T's proposal at this time.

[30] Section 68.215(c) requires that installations of system wiring be supervised by either an individual with training and authority from the equipment registrant or by a licensed professional engineer. 47 CFR 68.215(c).

[31] New York Comments at 6; GTE Comments at 9; USITA Comments at 4; California Comments at 3–4; UTS Comments at 8; AT&T Reply at 16.

[32] UTS states that either Option 3 or Option 2, which would restrict the untrained to certain types of wiring installations, is acceptable. UTS Comments at 5. REA, however, argues that Option 2 is unnecessarily restrictive. REA Comments at 2. Northern Telecom and CCS oppose Option 1, which would "umbrella" local requirements, with CCS urging that the telephone company become involved with the pre-wire company and provide inspection service on pre-wire installations. Northern Telecom Reply at 2–4; CCS Comments at 4. NATA is the only party that supports the "umbrella" approach of Option 1. NATA Comments at 26–27.

[33] We also reject CCS's proposal that telephone companies be required to provide inspection service on pre-wire installations. As discussed previously, the responsibility for non-system COPW falls on the subscriber—not the telephone company. The extraordinary telephone company procedures under § 68.213(g), which will be adopted for non-system COPW (*see* para. 84 *infra*), should be adequate for any telephone company inspections that may be required.

[34] In lieu of a § 68.213(c) dealing with installers' qualifications, AT&T proposes a § 68.213(c) dealing with subscribers' responsibilities in installing one and two-line wiring. AT&T's proposal also contains a provision by which the subscriber agrees to hold the telephone company harmless from any liability or claims resulting from the subscriber's installation of COPW. AT&T Comments, Appendix at 8. We reject AT&T's proposal. The subscriber responsibilities listed in its proposal—such as advance notice to the telephone company and acceptance testing—are contained elsewhere in Section 68.213. Moreover, the provision exculpating the local telephone company is inappropriate. We believe an expression of subscriber responsibility for COPW is sufficient and that remedial resolution of potential liability should be controlled by normal tort and contract law principles.

D. Specific Proposals for Changes in Qualification Requirements for Installation Supervisors Under § 68.215(c)

44. Aside from the matter of qualification requirements for installers of non-system COPW, two parties urge changes in the qualification requirements for supervisors of system wiring installations under Section 68.215(c). Both FEA and Riverside propose that the authorized categories of supervisors for system wiring installation be expanded.

45. FEA urges that certain U.S. Government trained personnel, notably military personnel prepared by military vocational training, are qualified to install system wiring.[35] FEA Comments at 2–5. FEA asserts that despite this, § 68.215(c) requires all FEA supervisors to be "retrained" by equipment manufacturers, an extremely costly step that does not assure more qualified supervisors, or to be licensed in the jurisdiction in which the installation is to be performed, requiring relicensing each time personnel are transfered to new duty stations, likewise without improving qualifications. FEA Comments at 4,7. FEA thus urges us to amend § 68.215(c) to include personnel trained at U.S. Government training facilities as qualified supervisors of system wiring installations.[36]

46. Both AT&T and GTE object to FEA's proposal. Both assert that the existing chain of responsibility between registrants, installation supervisors and the Commission—which assures that system wiring will not cause harm to the network—would be seriously undermined if FEA's proposal were adopted. They further argue that the Commission should not allow itself to become the arbiter of whether communications training programs are adequate. Moreover, both AT&T and GTE suggests that designating a single, corporate level supervisor for purposes of satisfying § 68.215(c) would accommodate FEA's concerns about having to retrain personnel without compromising the existing regulatory scheme. Both commenters cite *Amendment of Part 68*, 92 FCC 2d 670 (1982), where the American Association of Railroads (AAR) was denied reconsideration of a Commission order which declined to create an exception to Part 68 for electric and gas companies historically excepted from tariff provisions prohibiting interconnection of technical equipment. AT&T and GTE note that in denying AAR's petition, the Commission stated that § 68.215(c) permits a company to designate one supervisor who meets the requisite qualifications to be responsible for *all* wiring installation and maintenance work that the company conducts and that the rule does not require that each supervisor on every job site meet the requirements of § 68.215. AT&T Reply at 20; GTE Reply at 20.

47. FEA acknowledges the AAR decision in its reply comments but apparently argues that its program provides more assurances against network harm than do the Part 68 requirements. FEA notes that its proposal would always require installation by graduates of its training program, and it would always require on-site supervision, while § 68.215(c) allows persons to perform system wiring installation operations without proof of training and without on-site inspection by a qualified installation supervisor. Moreover, even if supervisory responsibility is delegated, FEA indicates that it would require all on-site installers to be properly trained by § 68.215(c)-qualified supervisors. At which point, FEA argues, the on-site installers "would be, for all intents and purposes, installation supervisors" and should be explicitly authorized to install such wiring under § 68.215(c). FEA Reply at 7. In response to the contention that granting its request would undermine the intent of § 68.215(c), FEA states that because it is dependent upon the proper functioning of the network for national defense and security purposes, it has a sufficient vested interest in system wiring to carry the ongoing responsibility for the proper installation of such wiring. FEA Reply at 4.

48. Adoption of FEA's proposal would alter the existing regulatory framework that identifies responsibility for system wiring operations. In order to maintain the integrity of the Part 68 program we have not, in the past, granted exemptions from Part 68's requirements absent a compelling public interest justification for doing so. As the Commission stated in the AAR decision:

> [A] showing that a particular entity is technically capable of interconnecting its own equipment with the telephone network (or has done so in the past) does not in and of itself justify an exception under our previously established public interest standards embodied in Part 68. 92 FCC 2d at 674.

Because AAR had not demonstrated that the burden on it to comlpy with Part 68 was unreasonable or contrary to the public interest, the Commission denied its petition. Likewise, we will not expand the categories of authorized supervisors under § 68.215(c), as FEA requests, without a showing that compliance with Part 68 is unreasonably burdensome to FEA or contrary to the public interest.

49. As FEA acknowledges in its reply comments, not *all* its installation supervisiors are required by § 68.215(c) to be retrained by equipment manufacturers or to be licensed in the state where the wiring is to be installed. Any supervisor meeting the requisite qualifications may delegate on-site supervisory responsibilities to other personnel. FEA has failed to demonstrate that securing manufacturers' authorizations on behalf of selected, qualified supervisors is unduly burdensome [37] or contrary to the public interest.[38] We disagree with FEA's further argument that its on-site installation personnel, having been trained by qualified supervisors, will be, in effect, installation supervisors themselves and should be authorized as such in the rules. FEA has overlooked the fact that under §68.215(c) the responsible individual, *i.e.*, the installation supervisor, must still be trained and authorized by the registrant or licensed in the jurisdiction where the wiring is to be installed. FEA's proposal, however, would allow personnel not meeting § 68.215(c)'s requirements to supervise installation. This will erode the manufacturer-installer agency relationship and licensing scheme underlying § 68.215(c), not merely codify the practical result of the delegation of

[35] FEA has incorporated by reference into its comments a Petition for Rulemaking that it filed with the Commission in June, 1982. FEA's comments regarding installation supervisor's qualification requirements echo the arguments advanced and proposals made in its Petition for Rulemaking.

[36] FEA also proposes that § 68.222(c), AIOD trunk and station number verification, and § 68.216, repair of registered terminal equipment and registered protective circuitry, be similary amended. FEA Comments at 3. Because these proposals are based upon the same concerns that underlie the requested modification of § 68.215(c), they will be resolved in accordance with our discussion herein.

[37] Indeed, the concerns raised by FEA in its comments are nearly identical to those raised by AAR—and rejected by the Commission. AAR argued that its personnel were technically qualified to connect equipment and that the burden on it to send each supervisor to each registrant for training was unreasonable. The Commission noted that this was a misinterpretation of the rule. In response to AAR's further argument that filing affidavits under § 68.215(e) imposed an additional burden on it, the Commission stated that the installation supervisor designated under § 68.215(c) may file one affidavit for the entire company each year with each local telephone company—the "Blanket Affidavit" procedure. The Commission concluded that §68.215(c)'s requirements did not impose an unreasonable burden upon AAR.

[38] In Connection of Terminal Equipment to the Telephone Network, CC Docket No. 78–331, 44 FR 66825, Nov. 21, 1979, the Commission excepted government agencies from Part 68's requirements in instances where disclosing equipment, locations or project would compromise national security and defense. No such concerns are involved here.

supervisory responsibilites, as FEA asserts.

50. Finally, we note that while we might accept the proposition that FEA personnel, as well as many other categories of trained persons, are qualified to perform system wiring operations, authorizing new categories of supervisors under § 68.215(c) would create the practical dilemma of how to ascertain which training programs offer adequate safeguards against incompetent procedures and network harm. Put simply, it is not the function of this Commission to pass judgment on the myriad of technical training programs available in the nation. The broad institutional guidelines set forth in § 68.215(c)—which have proved adequate to protect the network from harms associated with system wiring installations—provide the most practicable program. In balancing between expending extraordinary federal resources to institutionalize a training program approval process and relying on the industry to comply with the generalized provisions of § 68.215(c), we believe the public interest requires us to choose the latter.

51. In sum, we see no reason to disturb the Part 68 program to accommodate FEA's proposal. FEA has failed to show that compliance with § 68.215(c) is unreasonably burdensome or contrary to the public interest. We are prepared to review this matter, however, upon a showing that FEA is faced with undue difficulty obtaining agency relationships with its suppliers.

52. The other proposal to expand the authorized categories of installation supervisors was made by Riverside. Asserting that holders of General Radio Operators licenses are "at least as qualified" as licensed electricians to install COPW, Riverside proposes that § 68.215(c) be amended to permit these license holders to supervise installations of unprotected system equipment and wiring.[39] Riverside Comments at 2–4. Riverside, however, has failed to present any evidence that § 68.215(c) imposes an undue burden upon it or that there is a public interest justification in adopting its proposal. For these reasons, we will reject Riverside's proposal.

[39] In its comments in response to the First Notice, Riverside requested that we institute examination and licensing procedures similar in principle to licensing of radio operators to identify qualified installers of COPW. We rejected this proposal in the Second Notice, noting that Riverside had not shown a compelling public interest justification to establish a complex new licensing scheme, nor had it shown that such a program could be relied upon to assure that no harm would be caused to the network by those so license. 92 FCC 2d at 24 n. 29.

E. Simple Installations

53. We noted in the Second Notice that if we permit one- and two-line non-system wiring to be installed by untrained subscribers, it might be desirable to give these installers some advice in order to avoid improper installations and any resulting harm to the network. To this end, we proposed a "simple installations" rule providing guidelines concerning the installation practices that should be avoided.[40] 92 FCC 2d at 28–30. The guidelines were not mandatory, that is, installations which followed such guidelines would be proper although other installations which violated the guidelines might also be proper under certain conditions. Our intent was merely to place untrained installers on notice that they might need to get advice on non-conforming installations. Because these guidelines are thus merely advisory, we believe that they are more appropriately contained in an informational bulletin rather than codified in the FCC rules. In this way, we hope to avoid the guidelines being interpreted as a formal rule and as unnecessarily restricting installations which, under proper circumstances and using other materials, might be entirely appropriate. In addition, we believe that because most subscribers will not have ready access to FCC regulations, disseminating a brochure containing installation guidelines is advisable.[41]

[40] The guidelines proposed were as follows:

(1) The following locations may not be suitable for all forms of telephone wire, because of the insulation of such wire, and should be avoided in simple installations:

(i) Damp locations.

(ii) Wire runs which provide support for other objects.

(iii) Excessively hot locations in proximity to steam pipes, heating ducts, hot water pipes, etc.

(2) COPW should follow structural members such as joists or studs. If it becomes necessary to route wire perpendicular to joists or studs, bored holes through the center of such members are a preferred method of providing support. If it becomes necessary to span the lower edge of joists, run the wire no more than five (5) inches from a wall to avoid possible damage to the wire.

(3) Wherever conduit (or other ducts) is available or is required by applicable codes for telephone wiring, it may be used solely for telephone wiring (or for non-hazardous voltage sources), and may not contain other electrical wires.

[41] Although our specific concern here is to protect the network from harm caused by the direct connection of premises wiring, the simple installation guidelines are also designed to prevent harm which may be caused to subscribers by improperly installed non-system wiring. We believe that it is in the public interest to disseminate such information.

54. None of the commenters opposes our proposed guidelines, although some suggest additions to the list of guidelines. REA, for example, suggests that we add two locations—(1) under water pipes and (2) between two structural studdings where electrical wiring is present—to the list of locations which may not be suitable for COPW. REA Comments at 2–3.[42] REA also recommends that we add explicit instructions regarding tip and ring pin assignments to guarantee proper operation of push button telephone sets. REA argues that absent a polarity guard, which a large number of sets do not have, improper polarity connection will prevent the subscriber from making outgoing calls. REA Comments at 3. In the interest of network protection and subscriber safety we will include REA's proffered "under water pipes" as a location which may not be suitable for one and two-line COPW. We do not agree, however, with REA's suggested restriction against locating COPW between two structural studdings where electrical wiring is present. As we noted on the Second Notice, this restriction is unnecessary because no conductor separation at all is required between telepone wiring and all current forms of power wiring used in premises where one and two-line wiring is likely to be installed.[43] We also do not think it appropriate to include explicit instructions regarding tip and ring pin assignments in push button telephones. Our guidelines should provide only general advice designed to protect the network and the subscriber; providing detailed installation instructions to cover every possible problem in installation, such as improper pin assignments in push button phones, exceeds our purpose in this proceeding.

55. GTE, for its part, requests that we add a paragraph regarding the safety hazard that could be caused if the protector ground wire is disconnected. GTE Comments at 17. We agree that subscribers intending to perform non-system wiring installations should be warned against manipulating the protector case or mounting. Indeed, the potential harm which could be caused if the protector were damaged is the reason we decided to assign responsibility for the protector to the telepone company. Accordingly, we will add the following to our guidelines:

When making the final connection of the premises wire to the demarcation jack, take

[42] GTE supports the first of these but notes that we already considered and rejected the latter in the Second Notice at 29 n. 34.

[43] *See* 92 FCC 2d at 29 n. 34.

extreme care to ensure that the protector case or mounting is not moved about or manipulated in a manner that would cause loosening or removal of the ground wiring.

56. Finally, AT&T urges us include a warning that COPW should be disconnected from the network when performing any operations and when trouble is experienced. AT&T Comments at 16.[44] Failure to disconnect COPW during work operations could result in shock or injury by inadvertent commercial power crosses on a telephone line or if an incoming call were to be received while work was being done on bare wire. COPW should, of course, be disconnected when trouble is experienced to prevent possible harm to the network. We will therefore also add the following to our guidelines:

All wiring should be disconnected from the telephone line during work operations, or when trouble is experienced in order to determine the source of the malfunction. If the wiring is the cause of the malfunction, it should remain disconnected until the problem has been corrected.

F. Notice/Documentation Requirements

57. Another issue raised in the Second Notice concerns the nature of a notice requirement to the local telephone company prior to installation of non-system COPW. Recognizing that non-system wiring is not as complex as system wiring, we suggested that a written notice requirement—as currently exists for system wiring under § 68.215(e)—would be unnecessarily burdensome for the average telephone subscriber. We suggested that oral notice to the telephone company should be sufficient but that the notice should include information similar to what is required for system wiring, *i.e.*, brief descriptions of the wiring and other materials to be used, and a general description of the wiring's attachment to the building structure. We also proposed that notice be given at least five days before connection to the telephone network. 92 FCC 2d at 22–23.

58. The parties commenting on these issues unanimously support an oral notice requirement,[45] although some suggest that the contents of that notice be simplified. UTS, for example, suggests that the required information be limited to the registration number of the wire or the type of physical connection, if other than a standard jack. UTS Comments at 6.[46] GTE, for its part, urges that a brief description of the wiring is not necessary if the subscriber states that he or she will comply with all applicable rules and codes. GTE Comments at 14–15. New York believes that a description of the location of the demarcation point to which the COPW is connected and a statement that all rules and codes will be complied with is sufficient. New York Comments at 5–6. AT&T supports the suggested simplifications in our proposed notification rule. AT&T Reply at 17.

59. In light of the commenting parties' support for our position that oral notice is sufficient for non-system wiring installations, we will adopt such a requirement in the rule. With respect to the content of that notice, we agree that some simplification of the rule proposed in the Second Notice is warranted. We believe the likelihood that one and two-line wiring will be improperly installed, causing network harm, is not substantial. Moreover, Part 68 material standards and acceptance testing requirements offer a significant means of preventing the occurrence of potential harms.[47] Indeed, even if there is a problem with the COPW, the jack through which it connects to the network serves as an easy means of disconnection. Thus, we believe that the proposed requirement for descriptions of materials other than wire and a description of the wiring's attachment to the building structure are not warranted as a means to prevent network harm, and that the administrative burden on the telephone company to record this information exceeds any discernible benefit. We believe, however, that the manufacturer's name or brand name and model number, if any, of the wire should be provided so that the telephone company can ascertain whether substandard wire is planned to be used, and, if so, to prevent it from being installed. *See* para. 80 *infra*. Thus, we will require that notice to the local telephone company include only the number of the subscriber's line, the location of the jack to which the COPW is to be connected, a statement that all applicable rules and codes will be complied with, and the name of the wire manufacturer or brand name and model number, if any, of the wire.

60. Several parties also argue that the five-day advance notice requirement set out in the proposed rule is unnecessary, although no party suggests that advance notice be eliminated entirely. California, for example, suggests that the wiring installer merely give advance notice of the work in accordance with the utility's standard operating procedures. California Comments at 4–5. GTE urges that we eliminate the five-day advance notice of the specific dates the wiring will be installed (GTE Comments at 14–15), while FEA asserts that one day's notice is sufficient. FEA Comments at 5–6.

61. In view of the minimal potential dangers of adequate and properly installed one and two-line wiring, as discussed above,[48] we are amenable to requiring "mere" advance notice. This will allow the telephone company to ascertain whether substandard wire is planned to be used, to install the required demarcation jack if one is not already in place, and to verify that the subscriber is at least aware that FCC and local rules for one and two-line COPW may apply. Such notice is required when terminal equipment or protective circuitry is connected to the telephone network, 47 CFR 68.106, and has proven satisfactory. We will therefore eliminate the five-day notice requirement and simply require the customer to give the telephone company advance notice that one and two-line wiring will be installed, with no maximum or minimum limit.

62. In sum, we will adopt the following as Section 68.213(e):

Notice to the telephone company. The subscriber shall notify the local telephone company in advance of each operation associated with the installation, connection, reconfiguration or removal (other than removal by disconnection at a standard jack) of premises wiring to or from the telephone network. The following information shall be provided: (1) The responsible subscriber's telephone number(s); (2) a description of the location of the jack to which the premises wiring is to be connected; (3) a statement that all applicable rules, building codes and electrical codes will be complied with; and (4) the wire manufacturer, or brand name, and model number, if any, of the wire used.

G. Acceptance Testing

63. In view of our decision that no special qualifications are necessary to install one and two-line COPW, acceptance testing takes on increased

[44] AT&T also notes that, consistent with telephone company practice, wiring should be run no more than three inches from a wall when spanning joists, not five inches, as proposed in § 68.213(h)(2). AT&T Comments, Appendix at 24. We have no objection to this suggestion and will amend the guideline accordingly.

[45] GTE Comments at 14–15; AT&T Comments at 27; UTS Comments at 6; NATA Comments at 26; California Comments at 6; New York Comments at 5; FEA Comments at 5–6.

[46] UTS's proposal assumes that a registration program for one and two-line wiring will be adopted. As we discuss below, we do not believe a standard registration program is necessary. *See* para. 80 *infra*.

[47] *See* discussions regarding acceptance testing and material requirements at paras. 63–68 and 69–75 *infra*.

[48] *See also* 92 FCC 2d at 16–17.

importance as a means of differentiating good installations from faulty ones that could cause network harm. In the Second Notice, we proposed that § 68.215(f)'s requirement that system wiring be tested by the installer for hum apply to one and two-line installations as well. We also proposed that a "ringback" testing requirement be adopted for one and two-line COPW installations. 92 FCC 2d at 26–27. "Ringback," *i.e.*, reverting-calling testing, involves the subscriber dialing a reverting-calling number after installation has been completed and, after hearing a unique tone, hanging up. The central office then automatically returns a ringing signal which allows the installer to determine that the non-system operations have been performed properly. (The test is generally used with a standard telephone, which will ring on receipt of the returning ringing signal.)

64. All of the commenters support some form of acceptance testing. REA, NATA, California and UTS explicity support a mandatory ringback testing number to be provided by the telephone company.[49] GTE, on the other hand, argues that use (and misuse) of a ring-back number could affect network operations and other subscribers' service when party line service is involved. GTE Comments at 15. GTE observes that although many central offices have equipment allowing a reverting call to ring back a subscriber's line, this equipment is installed primarily to allow party line subscribers to signal other parties on the same line. A Commission mandate that subscribers use the reverting call equipment for acceptance testing will, according to GTE, lead to a degradation of service to party line subscribers unless certain protective equipment is added. GTE proposes that in lieu of a ringback number, a third person should be required to place a call to the line being tested. When this method cannot be used easily, the telephone company's ringback test facilities may then be used. GTE Comments at 16. AT&T supports the notion of having a third person dial the line being tested. AT&T Reply at 17.

65. GTE presents no support for its assertion that demand for ringback testing and access to signalling equipment will affect party line service or require that new equipment be added. We note that the ringback testing number will be utilized only when new wiring is installed by subscribers and thus does not appear to create a significant demand for access to signalling equipment. At worst, the ringback number would also be used on occasion to test terminal equipment, which we believe is unlikely to cause a discernable degree of adverse impact, even to party line subscribers. We hesitate to foreclose to the majority of subscribers the utility and covenience of a ringback number of the basis of GTE's unsupported assertions, particularly in view of the decreasing number of party line subscribers nationally. *See* 92 FCC 2d at 37. Moreover, even if new equipment were needed in some cases to prevent inconvenience to party line subscribers, as GTE suggests, we believe that the benefits afforded by the availability of a testing number justifies the addition of such equipment. We therefore reject GTE's proposal.[50]

66. We recognize, however, that subscribers, may prefer to test by having a friend place a call to them, as GTE suggests. UTS similarly suggests that as an alternative to calling the ringback number a subscriber should be permitted the option of having another person dial the line being tested. UTS Comments at 7. We have no objection to this method because it would accomplish the same purpose as the ringback test and we will permit it as an alternative method of acceptance testing.

67. UTS further suggests that if the CPE to be connected to the non-system COPW does not provide signalling (such as a speakerphone or an auto dialer), a telephone compatible with the line to be tested be used to perform the test. UTS comments at 7. We agree. A ringback testing requirement benefits both the installer and the telephone company by ensuring that the wiring has been installed properly and thus will not cause harm to the network. This assurance should not be eliminated merely because the CPE connected to the COPW at that time may not respond to ringing.

68. Therefore, we will adopt as § 68.213(f) the following provisions for testing installations of one and two-line COPW:

Acceptance testing: Non-system premises wiring installed in accordance with these rules shall be tested under the acceptance tests specified in this sub-section whenever an operation associated with any installation, reconfiguration or removal of wiring (other than final removal) is performed. A telephone which responds to ringing shall be used to perform the test when the CPE connected or to be connected to the premises wiring does not itself provide ringing.

* * * * *

(2) "Ringback" testing. A telephone connected to the subscriber's line(s) shall be used as follows:

(i) Make a "ringback" call (obtain from the local telephone company information on how to make "ringback" test calls), or have another person dial the number of the line being tested.

(ii) Permit the telephone to ring for one minute (usually twelve rings).

(iii) Lift the handset off the telephone for five seconds or longer, as necessary.

(iv) Hang up. Check return of normal dial tone.

H. Material and Workmanship Requirements

69. The Second Notice also addressed material standards for non-system COPW and workmanship standards for wiring installation. It essentially proposed to apply the existing workmanship and materials standards contained in § 68.215(d) to the non-system wiring environment in § 68.213(d). It proposed only one minor variation, which was to incorporate a conductor separations table into the non-system wiring rules. 92 FCC 2d at 21–22.[51] In light of our decision to disseminate an instructional bulletin containing guidelines for installation of non-system COPW, however, we believe it appropriate to incorporate the workmanship and installation standards contained in proposed § 68.213(d) in that bulletin. This will consolidate all guidelines for installation (directed at subscribers) in our bulletin, while delineating the material standards for that wire (directed at manufacturers) in a separate rule.[52]

70. Several parties suggest modifications to the workmanship standards set out in our proposal. Four commenters point out an apparent error in the proposed separations table, noting that the minimum distance from COPW to electric supply open wiring not over 300 Volts should be 2 inches (51 mm) and not 2 feet (.6 m).[53] This correction will be made in the table. GTE further notes that the entry under the column labeled "Wiring Crossing Alternatives" should read "See Wire Separation—

[49] REA Comments at 2; NATA Comments at 27; California Comments at 4; UTS Comments at 7.

[50] The ringback number requirement adopted herein does not apply to party line subscribers, to whom Part 68 does not apply.

[51] We noted in the Second Notice that although these separation requirements are incorporated by reference (to electrical codes) into § 68.215(d), they are basic to the proper performance of telephone wiring and should be published specifically in § 68.213(d). 92 FCC 2d at 21–22.

[52] Because a § 68.213(c) was unnecessary in light of our decision not to impose any special qualifications on installers of non-system wiring, we will adopt the material requirements as § 68.213(c).

[53] AT&T Comments, Appendix at 17; UTS Comments at 8; REA Comments at 3; GTE Comments at 13.

§ 68.213(d)(7)," rather than "See Wiring Separations," as proposed. GTE Comments at 13. Because the entry refers to § 68.213(d)(7) which is captioned, "Wire Separation," we believe it is helpful to identify it as such in the separations table. We will therefore make this change.[54]

71. UTS proposes to include a statement regarding the connections made to vacant COPW conductors.[55] UTS suggests that installers be cautioned that while COPW may contain signals and voltages other than for network communications service, other relevant sections of Part 68 apply. UTS Comments at 7–8. We agree that it is important to ensure that untrained installers are aware that using COPW conductors for other than network communications purposes may cause network or safety problems. While proposed § 68.213(d)(5) ("Limitations on Electrical Signals") already contains a warning to this effect, we believe that subscribers would benefit from a simpler warning, as the untrained may not understand the technical language and references in the proposed rule. We will therefore include the following in the guidelines for simple installations:

Wiring conductors should not be used for other than network communications purposes. Routing any other voltage sources in wiring may result in improper functioning of the wiring or network harm.[56]

72. UTS argues that the simple installation guidelines should limit wire size to not finer than 26 gauge, and both UTS and USITA urge that the guidelines include a caution on length of wiring runs in relation to gauge. They assert that such rules are necessary to permit proper operation of the telephone circuit, especially if untrained subscribers are permitted to install wiring. UTS Comments at 8–9; USITA Comments at 5–6. GTE suggests that wire used for COPW should be limited to #22, #24 or, for flat wire, #26 awg. GTE Comments at 12–13. Because the chief benefit of including such a caution is to aid the untrained—especially those purchasing from bulk spools instead of pre-packaged wiring—we believe that any recommendations on wiring length as related to gauge are more appropriately included as guidelines in the simple installations bulletin rather than as material requirements. Although network integrity may be impaired if there is a proliferation of wiring runs exceeding recommended lengths, the primary beneficiaries of such a recommendation are COPW installers because longer-than-recommended runs may not provide satisfactory performance. Similarly, utilizing non-standard ultrathin wire may create performance problems. Accordingly, we will include a provision to discourage the use of such wire generally. We will add the following to the simple installations guidelines:

Wire runs should be limited to 250 feet for #22 awg wire, 200 feet for #24 awg wire, 100 feet for #26 awg wire, and 100 feet for flat wire. Longer runs may not provide satisfactory performance. Wire smaller in gauge than #26 awg should not be used.

73. With respect to material standards, the Second Notice proposed standards for non-system wire which are identical to those set out for system wire in § 68.215(d)(2). Specifically, because inadequately insulated wire has the potential to cause severe harm to the network or to others on the network, insulated conductors are required to have a jacket or sheath with a 1500 Volt minimum breakdown rating. Because a covering jacket or sheath may not be necessary with two or four conductor wire, however, and such conductors, if individually insulated, may meet the specified insulation breakdown rating, we will not require a jacket or sheath to be used with one and two-line COPW. Rather, we will simply require conductors to have insulation that meets the 1500 Volt breakdown requirement. In addition to this requirement, AT&T proposes to include requirements that one and two-line COPW meet specified stress and longitudinal balance tests and consist of solid, annealed copper conductors insulated with polyvinyl chloride or an equivalent compound.[57] AT&T Comments, Appendix at 12–13. The bulk of one and two-line COPW will be unshielded wire, i.e. two or four conductors in a flat or round cable, requiring a complicated testing scheme that would involve bundled cable or ground plane test references. Even in the event of imbalance of such cable, the impact would be noise on the subscriber's telephone line, a customer problem analogous to noisy CPE. This is not a harm to the network under § 68.3(g). Because an imbalance testing scheme is not readily implemented and because no harm is likely to be caused to the network if the COPW is imbalanced, we see no need to adopt these testing requirements. As for AT&T's proposed material requirements, it is not apparent why conductors must be copper or insulated with a polyvinyl chloride compound.[58] Compliance with the 1500 Volt insulation breakdown rating should be sufficient to ensure that the COPW is not likely to introduce harm to the network. Accordingly, we decline to adopt these additional material standards.

74. GTE also suggests additional material standards, including a requirement that the wire be commercially available and easily identifiable as telephone premises wire, that conductors be 22 or 24 gauge (or in the case of flat cable, at least 26 gauge), and that the conductor insulation use an industry accepted color code format. GTE Comments at 12–13. We believe, however, that packaging requirements, such as color coding and labelling, should not be implemented by this proceeding. *See* para. 80 *infra*. Further, the proposal to include requirements relating to gauge has been addressed in para. 72 *supra*.

75. Finally, UTS and GTE recommend that the material requirements mandate that one and two-line COPW have a minimum of three, and preferably four, conductors. Both parties reason that if the subscriber at a location served by one line decides to join a party line or add a second line to the premises, three or four conductors are needed. Because the "incremental cost of four-conductor station wire is minimal," they argue that this type of wire should be required to be installed initially. UTS Comments at 8–9; GTE Reply at 24–25. We believe that this proposal relates to subscriber convenience rather than to network integrity. Although we recognize that it might be beneficial to some subscribers to install four conductor cable, we see no reason to foreclose those subscribers who wish to install two conductor

[54] CCS asserts that the separations table should also warn against running telephone wire through holes containing electrical wires. CCS Comments at 6. This warning is already contained in the simple installations guidelines and therefore need not be repeated in the table.

[55] Electrical signals which are generated in equipment at the subscribers' premises, rather than from the local telephone company central office, are permitted to be routed in COPW provided that they are "non-hazardous voltage sources" meeting certain Part 68 requirements. For example, low voltage power supplies and security and alarm systems may be found in one and two-line business and residential telephone service.

[56] California suggests that the table of electrical current limitations in proposed § 68.213(d)(5) has no application to one and two-line installations and should therefore be omitted. California Comments at 5. We note that the guidelines, as adopted, simplifies proposed § 68.213(d)(5) and eliminates this table.

[57] AT&T also proposes that passive COPW components be required to meet longitudinal imbalance and electrical stress tests. As indicated in note 29 *supra*, we do not believe any such requirements are appropriate at this time.

[58] AT&T also suggests that the conductors should be insulated so as to assure that no greater than 10 milliamperes peak current flow, conductor-to-conductor. This standard is already contained in the rule containing the insulation breakdown rating requirement. We believe this standard relates to network harm. *See* § 68.213(d)(1).

COPW from doing so. We therefore reject this proposal.

I. Registration of One- and Two-Line COPW

76. The Second Notice also raised the issue of whether a registration program should be adopted for one- and two-line COPW. We stated in the Second Notice that the rules for system wiring do not require registration, but require instead that documentation be provided to the telephone company by the installation supervisor demonstrating that the wiring will conform to the insulation requirements specified in § 68.215(d)(2). This procedure was adopted because substandard system wire probably would not be used by those who were responsible for subsequent failures. We observed, however, that "inappropriate" cables are available in the marketplace (*e.g.*, "zipcord"-type appliance wire, speaker wire, thermostat wire, bell wire, etc.) that might be used by untrained subscribers for one- and two-line COPW installations. There is also a possibility that substandard cables, though denoted "telephone wire," might be manufactured and broadly made available to subscribers through retail outlets. In view of these considerations, we proposed an abbreviated registration procedure directed towards assuring that non-system wiring conforms to a 1500 Volt breakdown rating. We further proposed to limit the wire registration requirement to cables containing fewer than twenty-five pairs, reasoning that twenty-five pair or larger cables should have been designed for use in the system environment, which, as indicated, should be self-regulated for quality. 92 FCC 2d at 31. We invited comment on these proposals.

77. Both AT&T and GTE urge that a full registration program for wire used for non-system installations would be unnecessary and burdensome. AT&T suggests that simply requiring manufacturers to comply with Part 68 material standards and to declare in written form on the packaging that the wire meets these standards is sufficient. AT&T Comments at 27. GTE recommends that in lieu of registration the Commission should adopt industry standards by requiring use of wire that meets the Electronics Industries Association (EIA) performance specifications set out in PN–1558, "Premises Wiring for Voice Telephone Terminals." Additionally, GTE urges that the wire should be UL listed and specifically identified as telephone premises wire for one- and two-line installations. GTE further states that if the Commission does not elect to use industry standards, it would favor an abbreviated registration program or a "verification" program requiring the wire manufacturer to attest that the wire complies with FCC technical requirements. GTE Comments at 11–12. The Insulated Cable Engineers Association (ICEA) notes in its comments that it is currently developing manufacturing standards for non-system premises wire, and requests that we defer any regulatory action until these standards are completed.[59] AT&T supports the development of industry standards for wire and suggests that EIA or ICEA standards would be appropriate. AT&T Reply at 18.

78. REA, on the other hand, supports a registration program and, as an additional safeguard, suggests that the wiring installer be required to provide documentation to the telephone company regarding the materials and means of connection. REA Comments at 3. UTS, although not explicitly supporting any particular registration procedure, urges that subscribers be required to provide the telephone company with the registration number of wire used in non-system installations. In addition, UTS submits that *all* unprotected premises wiring—including twenty-five pair cables—should be required to comply with specific industry standards and suggests that EIA standards should be incorporated by reference into our rules. UTS Comments at 6.

79. Athough we agree with those commenters who urge that a full registration program is not warranted, we believe that some sort of assurance of telephone wire's quality and suitability is necessary. We are concerned that substandard cables specifically labelled as "telephone wire" might be made broadly available to consumers once our non-system COPW program is adopted. This may create two problems unique to telephone wire. First, such wire is not UL listed and therefore is not offered to the public with any generally accepted guarantee of inherent quality.[60] Second, with regard to specific technical matters, faults in wire insulation could unreasonably increase the potential for harmful contact with premises electricity sources, which could cause damage to telephone company equipment or harm to telephone company personnel. In order to avoid these potential problems, we believe that a nonburdensome procedure to assure the distribution of wire safe for telephone network interconnection is warranted.

80. In implementing such a procedure, we seek to avoid imposing any unnecessary burden on wire manufactures or others. A full, long-form registration program involving detailed testing by a qualified laboratory and submission of support data and samples to the FCC is overly burdensome, both on manufacturers and on the Commission, particularly in a market where only some half dozen manufacturers now exist.[61] *See* 47 CFR Part 68, Subpart C. Our proposal in the Second Notice for an abbreviated registration program did not specify procedural requirements, although we intimated that a requirement for submission of data supporting conformance with the 1500 Volt breakdown rating currently contained to § 68.215(d)(2) was under consideration. In view of the comments and our policy of minimizing regulatory oversight, we do not believe such a procedure is necessary. Instead, we will require wire manufacturers (or distributors or retailers, whichever name appears on the wire packaging in the marketplace) simply to attest, by letter, to the Commission that their non-system telephone wire meets Part 68 standards.[62] The Commission will from

[59] A draft of these standards, entitled "American National Standard for Telecommunications Wire and Cable for Premises Wiring," was submitted by ICEA.

[60] As of the date of adoption of this order, neither EIA nor ICEA standards have been finalized. Several commenters suggest that these industry-developed standards, when finalized, should be incorporated by reference into the Part 68 rules. We do not believe that this is necessary. The material standards already contained in the rules should be adequate to assure the quality of wire and prevent potential harm to the network. Further, if industry standards are incorporated by reference, a determination would have to be made as to which specific standards to incorporate, a formidable undertaking which we do not believe is warranted in light of the safeguards against potential network harm adopted herein. Of course, nothing in our order precludes wire manufacturers from complying with more stringent industry standards. Once industry standards are established, any party feeling that the standards we adopt here are unnecessarily stringent may utilize the appropriate regulatory procedures to seek a change.

[61] As suggested above, our concern is that widespread implementation of our non-system COPW program will produce an incentive for the retail distribution of low priced telephone wire by a myriad of suppliers. Thus, despite the current small number of manufacturers, we anticipate that the rules we adopt here will be needed in the expanded wire supply environment.

[62] Attestation letters should be submitted to the Secretary of the Commission, 1919 M Street, NW., Washington, D.C. 20554. For the reasons discussed in the Second Notice and in para. 76 *supra*, we will not subject twenty-five pair (or greater) cable to this attestation procedure. *See* Second Notice at para. 80.

time to time publish by public notice a list of attestation registrants. Consumers choosing to perform non-system COPW operation will by required to contact their telephone company to report, among other things, the brand name or manufacturer and model number, if any, of the wire they have selected. *See* para. 59 *supra* and § 68.213 of the rules. If the manufacturer of that wiring is not on the Commission's attestation list or is shown to be marketing wire that causes harm to the network, the telephone company may limit the subscriber's right to connect that wire to the network. *See* § 68.213(g). Telephone companies, of course will be expected to maintain an up-to-date list of approved wire. To ensure that consumers are readily able to identify suitable wire, we encourage manufacturers to indicate clearly on the packaging that the wire meets FCC standards.

81. In short, this attestation procedure is minimally burdensome on the industry and this Commission, yet it reasonably assures that the wire used for non-system wiring will not, of itself, cause harm to the network. Therefore, we will add the following as § 68.213(d):

Attestation: Manufacturers (or distributors or retailers, whichever name appears on the packaging) of one and two-line non-system premises wire shall attest in a letter to the Commission that the wire conforms with Part 68, FCC rules.

If in the future, however, a showing can be made that the industry has become self-regulated for quality, we are prepared to revisit these matters.

J. Instructions.

82. The Second Notice indicated that if we were to rquire registration of one and two-line non-system wire, the registrant, like other registrants, would be subject to the rquirement of § 68.218(b)(1) to provide installation instructions with the wire. 92 FCC 2d at 31. No party opposes such a requirement, and AT&T and GTE emphasize the advisability of providing instructions to untrained installers of non-system COPW. AT&T Comments at 27; GTE Comments at 9–10. California's position that no special qualifications should be imposed on non-system installers rests partially on its belief installation instructions are readily available from wire manufacturers and local telephone companies. California Comments at 4.

83. We agree that it would be desirable to make installation instructions available to all persons purchasing non-system telephone wire. Our informational bulletin will to a large degree provide this information. In light of this and in order to minimize regulatory intervention, however, we will not impose a requirement that manufacturers make installation instructions available with their wire. Indeed, because untrained installers will tend to make their wire purchase decisions based, in part, on the availability of this relevant information, it would appear that wire manufacturers have an incentive to include installation information with their products where practicable. For their part, telephone companies, in order to preserve the integrity of their network, would benefit by disseminating such information to their subscribers, perhaps as a billing insert and/or in their "white pages."[63] We encourage wire manufacturers, distributers and retailers, as well as telephone companies, to cooperate in this regard.[64] As an example of this kind of cooperation, we note that GTE telephone companies provide pamphlets containing installation instructions for non-system COPW and provide assistance if their subscribers encounter unexpected problems in installation (where state programs apply). GTE Comments at 9–10. We suggest that the guidelines and warnings in our instructional bulletin, the notification requirement of § 68.213(e), and the testing requirements of § 68.213(f) together serve as a model for any installation instructions.

K. Extraordinary Procedures

84. In the Second Notice, we proposed that the existing extraordinary telephone company procedures of § 68.215(g) should be applied equally to non-system COPW. These procedures provide, in short, that the telephone company may, as an exceptional remedial measure, inspect the wiring during or after placement and may require the use of a protective apparatus. We observed that these procedures take on increased importance if no special qualifications are required for non-system installers. 92 FCC 2d at 23. No comments were received on this issue. We therefore adopt the rule as proposed. Changes in wording, however, are necessary to make the rule consistent with our program for non-system COPW.[65] We have incorporated these changes in the rule. *See* Appendix.

[63] Some telephone companies already provide installation instructions for terminal equipment in their "white pages."

[64] We note that this does not preclude state regulatory authorities from disseminating additional instructional material or requiring local telephone companies to disseminate this information to their subscribers.

[65] For example, § 68.215(g) speaks in terms of information provided in the "supervisor's affadivit," language which is not applicable to the non-system COPW program.

V. Conclusion and Ordering Clauses

85. The inclusion of one and two-line non-system premises wiring in Part 68 will expand the scope of Part 68 so that new customer premises wiring activities may be performed by subscribers themselves. We believe that the standards adopted for one and two-line non-system COPW will assure that this end is reached without creating the potential for harm to the network. In addition, we believe that the definition of demarcation point adopted herein provides a workable and flexible solution to the problem of determining where the network ends and COPW begins.

86. For purposes of Regulatory Flexibility Act, 5 U.S.C. 604, the Commission certifies that this report and order will not have a substantial economic impact on a significant number of entities. There are presently only some half dozen manufacturers of non-system telephone premises wiring, all of whom are producing quality wire. In addition, the report and order simply requires manufacturers to attest by letter that their wire meets FCC requirements.

87. Accordingly, it is ordered, pursuant to 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 220, 313, 403, 412, and 5 U.S.C. 553, that Part 68 of the Commission's Rules and Regulations, 47 CFR 68.1 *et seq.*, is amended as set forth in the attached appendix to be effective August 21, 1984.

88. It is further ordered, that the Secretary shall cause a copy of this *Report and Order* to be served on the state Commissions.

89. It is further ordered, that Docket 81–216 is terminated with regard to the issues addressed herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 68—[AMENDED]

Part 68 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 68) is amended as follows:

1. Section 68.1 is revised to read as follows:

§ 68.1 Purpose.

The purpose of the rules and regulations in this part is to provide for uniform standards for the protection of the telephone network from harms

caused by the connection of terminal equipment and associated wiring thereto, and for the compatibility of hearing aids and telephones so as to ensure that persons with hearing aids have reasonable access to the telephone network.

2. Section 68.2 is amended by adding a new section (a)(4) to read as follows:

§ 68.2. Scope.

(a) * * *

(4) Of all customer premises wiring associated with one and two-line (non-system) residential and business telephone service.

§ 68.3 [Amended]

3. Section 68.3 is amended by adding the term "Network Interface or Demarcation Point," removing "Interface," and adding "Non-System Premises Wiring" to the alphabetical list of terms. The reference letters assigned to various definitions in § 68.3 will be reassigned to reflect changes in alphabetical order.

* * * * *

Network Interface or Demarcation Point: The point of interconnection between telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. The network interface or demarcation point shall be located on the subscriber's side of the telephone company's protector, or the equivalent thereof in cases where a protector is not employed, as provided under the local telephone company's reasonable and nondiscriminatory standard operating practices.

* * * * *

Non-System Premises Wiring: Wiring which is used with one and two-line business and residence services, located at the subscriber's premises.

(1) Fully Protected Non-System Premises Wiring. Non-system premises wiring which is electrically-behind registered (or grandfathered) equipment or protective circuitry which assures that electrical contact between the wiring and commercial power wiring or earth ground will not result in hazardous voltages at the telephone network interface.

(2) Unprotected Non-System Premises Wiring: All other non-system premises wiring.

4. The captions of the present paragraph (t) of § 68.3 are revised to read as follows:

System Premises Wiring:

(1) Fully Protected System Premises Wiring.

(2) Protected System Premises Wiring Requiring Acceptance Testing for Imbalance.

(3) Unprotected System Premises Wiring.

5. A new § 68.213 is added as follows:

§ 68.213. Installation of other than "fully protected" non-system premises wiring.

(a) *Scope of this rule.* Provisions of this rule are limited to "unprotected" premises wiring used with simple installations of wiring for one and two-line residential and business telephone service. More complex installations of wiring for multiple line services, for use with systems such as PBX and telephone systems, are controlled by § 68.215 of these rules.

(b) *Wiring authorized.* "Unprotected" premises wiring (wiring which is not located electrically behind apparatus which protects against hazardous voltages and imbalance) may be used to connect units of terminal equipment or protective circuitry to one another, and to the network interface (or demarcation point), if installed in accordance with these rules. Subsequent relocation of a demarcation point may be arranged, either at the subscriber's request or on the serving telephone company's initiative, but the serving telephone company shall not discriminate in its treatment of demarcation point location, or relocation. Responsibility for the protector (and its associated grounding) on the network side of the demarcation point rests with the telephone company, though the subscriber is responsible for consequences resulting from erroneous wiring procedures conducted under his or her direction. Responsiblity for wiring on the subscriber's side of the demarcation point (including any protector that may be installed as part of the premises wiring) purchased in-place or wholly or partially new, rests with the owner (or subsequent owner) of the wiring.

(c) *Material requirements.* Conductors shall have insulation with a 1500 Volt rms breakdown rating. This rating shall be established by covering the jacket or sheath with at least six inches (measured lineraly on the cable) of conductive foil, and establishing a potential difference between the foil and all of the individual conductors connected together, such potential difference gradually increased over a 30 second time period to 1500 Volts rms, 60 Hertz, then applied continuously for one minute. At no time during this 90 second time interval shall the current between these points exceed 10 milliamperes peak.

(d) *Attestation.* Manufacturers (or distributors or retailers, whichever name appears on the packaging) of non-system telephone premises wire shall attest in a letter to the Commission that the wire conforms with Part 68, FCC Rules.

(e) *Notice to the telephone company.* The subscriber shall notify the local telephone company in advance of each operation associated with the installation, connection, reconfiguration and removal (other than removal by disconnection at a standard jack) of premises wiring to or from the telephone network. The following information shall be provided:

(1) The responsible subscriber's telephone number(s).

(2) A description of the location of the jack to which the premises wiring is to be connected.

(3) A statement that all applicable rules, building codes and electrical codes will be complied with.

(4) The wire manufacturer, or brand name, and model number, if any, of the wire used.

(f) *Acceptance testing.* Non-system premises wiring installed in accordance with these rules shall be tested under the acceptance tests specified in this subsection whenever an operation associated with any installation, reconfiguration or removal of wiring (other than final removal) is performed. A telephone which responds to ringing shall be used to perform the tests when the CPE connected or to be connected to the premises wiring does not itself provide ringing.

(1) *Dial Tone Testing.* A telephone connected with the line(s) shall be used to perform this test in the following order:

(i) Lift the handset of the telephone to create the off-hook state on the line under test.

(ii) Listen for noise. Confirm that there is neither audible hum nor excessive noise.

(iii) Listen for dial tone. Confirm that dial tone is present.

(iv) Break the dial tone by dialing a digit. Confirm that dial tone is broken as a result of dialing the digit.

(v) With dial tone broken, listen for audible hum or excessive noise, which could indicate a faulty connection. Confirm that there is neither audible hum nor excessive noise.

(2) *"Ringback" testing.* A telephone connected to the subscriber's line(s) shall be used as follows:

(i) Make a "ringback" call (obtain from the local telephone company information on how to make "ringback" test calls), or have another person dial the number of the line being tested.

(ii) Permit the telephone to ring for one minute (usually twelve rings).

(iii) Lift the handset off the telephone for five seconds or longer, as necessary.

(iv) Hang up. Check return of normal dial tone.

(3) *Failure of acceptance tests.* Absence of dial tone before dialing or inability to break dial tone during either test indicates failure of premises wiring. Failure to receive ringing during the "ringback" testing may indicate failure either of the wiring or of the ringer in the telephone; if necessary, substitute a telephone which is known to be operating to determine which is at fault. Upon any failure, the failing equipment or portion of the premises wiring shall be disconnnected from the telephone network, and may not be reconnected until the cause of the failure has been isolated and removed. Any previously tested line(s) shall be retested if it was in any way involved in the isolation and removal of the cause of the failure.

(g) *Extraordinary procedures.* The local telephone company is hereby authorized to limit the subscriber's right of connecting one and two-line non-system premises wiring.

(1) *Conditions which may invoke these procedures.* The extraordinary procedures authorized herein may only be invoked where one or more of the following conditions is present:

(i) Information provided by the subscriber gives reason to believe that a violation of Part 68 of the FCC's Rules is likely.

(ii) A failure has occurred during acceptance testing.

(iii) Harm has occurred, and there is reason to believe that this harm was a result of wiring operations performed under this section.

The extraordinary procedures authorized in the following subsections shall not be used so as to discriminate between installations by local telephone company personnel and installations by others. In general, this would require that any charges for these procedures be levied in accordance with, or analogous to, the "maintenance of service" tariff provisions: if the installation proves satisfactory, no charge should be levied.

(2) *Monitoring or participation in acceptance testing.* Notwithstanding the previous subsection, the local telephone company may monitor or participate in acceptance testing at the time of the initial installation of wiring in the absence of the conditions listed therein; at any other time, one or more of the listed conditions shall be present. Such monitoring or participation in acceptance testing should be performed from the central office test desk where possible to minimize costs.

(3) *Inspection.* Subject to paragraph (g)(1) of this section, the local telephone company may inspect wiring installed pursuant to this section. To minimize disruption of the premises communications system, we are limiting the right of inspecting wiring as follows:

(i) During initial installation of wiring: The telephone company may require withdrawal of up to 5 percent (measured linearly) of wiring run concealed in ducts, conduit or wall spaces, to determine conformance of the wiring to the information furnished by the subscriber.

(ii) After failure of acceptance testing or after harm has resulted from installed wiring: The telephone company may require withdrawal of all wiring run concealed in ducts, conduit or wall spaces which reasonably could have caused the failure of harm, to determine conformance of the wiring to the information provided by the subscriber.

(4) *Requiring the use of protective apparatus.* In the event that any of the conditions listed in paragraph (g)(1) of this section, arises, and is not permanently remedied within a reasonable period, the telephone company may require the use of protective apparatus which protects against hazardous voltages. Such apparatus may be furnished either by the telephone company or by the subscriber. This right is in addition to the telephone company's rights under § 68.108.

(5) *Notice of the right to bring a complaint.* In any case where the telephone company invokes the extraordinary procedures of § 68.213(g), it shall afford the subscriber the opportunity to correct the situation which gave rise to invoking these procedures, and inform the subscriber of the right to bring a complaint to the Commission pursuant to the procedures set forth in Subpart E of this part. On complaint, the Commission reserves the right to perform any of the inspections authorized under this section, and to require the performance of acceptance tests.

6. The heading of § 68.215 is revised to read as follows:

§ 68.215 Installation of other than "fully protected" system premises wiring.

* * * * *

[FR Doc. 84-13812 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 81 and 83

[FCC 84-218]

Clarification of Five Marine Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action updates and clarifies five unrelated rules in the maritime radio services. This action is a result of the Commission's ongoing effort to eliminate unnecessary regulations and simplify the rules. These revisions are intended to further this effort.

EFFECTIVE DATE: May 22, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, 202 (632-7175).

List of Subjects

47 CFR Part 81

Coast stations.

47 CFR Part 83

Communications equipment, Ship stations, Telegraph.

Order

Amendment of Parts 81 and 83 to update and clarify certain rules in the Maritime Services; FCC 84-218.

Adopted: May 15, 1984.
Released: May 22, 1984.

By the Commission.

1. In this Order we are deleting an unnecessary rule in Part 81 regarding marine utility stations, and clarifying four rules in Part 83 concerning ship stations on large oceangoing ships.

2. *Section 81.362.* Marine utility stations are portable, low power devices which are operated in the VHF band. They may be used either on land or aboard ships. These stations provide for the flexible short range communications needs of various segments of the maritime community such as harbor pilots. When this class of station was established, we required applicants to submit the antenna information and show they had coordinated with other stations. These requirements are similar to those for coast stations licensed under Part 81. However, because marine utility stations are portable and low power VHF radios with self-contained antennas, interference potential is minimal. The antenna information and coordination required by § 81.362 of the rules is not used or needed for regulatory purposes and poses an unnecessary burden on the maritime public. We are, therefore, deleting § 81.362 from the rules.

3. *Section 83.38.* In the past all documented U.S. ships retained their original radio call sign throughout the life of the ship. This required the Commission to verify a ship's call sign

each time ownership was transferred. A recent change in U.S. Coast Guard regulations [1] has dissociated the call sign from the hull documentation number. Therefore, we are discontinuing the practice of reassigning the same radio call sign to documented ships, with the exception of radiotelegraph ships and ships with survival craft stations. These excepted classes are assigned four letter call signs rather than the alphanumeric call signs assigned all other classes of ship stations. Since only 800 of the approximately 150,000 documented U.S. ships are assigned four letter call signs, this change in procedure will simplify processing of ship station applications. We are also amending § 83.38 with regards to temporary call signs to reflect this change. Only ships previously assigned a four letter call sign will continue to use that call sign under a temporary authorization.

4. *Section 83.442.* This rule requires the main and reserve radiotelegraph stations on board compulsorily equipped ships to be electrically separate and independent. Some ships utilize a common set of instruments and meters to provide a visual indication of system operations. These devices are merely ancillary and are not essential to the operation of either system. We are amending § 83.442 to make clear that such ancillary devices do not violate the requirement for electrical separation of the main and reserve installations.

5. *Section 83.445.* Paragraph (e) of this rule section, consistent with the provisions of the International Convention for the Safety of Life at Sea, requires certain compulsorily equipped ships to be capable of conducting periodic tests of the radiotelephone alarm signal generator on a frequency other than the distress frequency. The purpose is to avoid interference and false alarms on the distress frequency. However, paragraph (a) of the section, which describes transmitter requirements, provides only that the distress frequency must be installed in the subject transmitter. Obviously there must be a second frequency in the transmitter for the purpose of carrying out the required test and we are amending paragraph (a) to make this clear.

6. *Section 83.454.* A general exemption from the radiotelegraph requirements of the Communications Act is in effect for certain ships navigated on domestic voyages.[2] One of the conditions of the general exemption is that the subject ship be equipped with an auto alarm receiver and have the capability to relay the distress message to shore. Although the auto alarm must provide an audible warning on the bridge, in the radio officer's stateroom and the radio room, the only location permitted for the "off" switch is the radio room. On ships operating under the general exemption, this arrangement could cause the deck officer to leave the bridge to turn off the auto alarm. This was not intended. We are, therefore, amending § 83.454 to permit an additional "off" switch to be located on the bridge of ships operating pursuant to this general exemption.

7. Authority for this action is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Since these amendments make minor changes which are likely to be noncontroversial, we find good cause to dispense with the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B). In addition, some of these rule changes are interpretive in nature and thus exempt from the notice and comment requirements of 5 U.S.C. 553(b)(3)(A). Because these changes relieve restrictions on the public or are interpretive rules, the effective date provisions of 5 U.S.C. 553 also do not apply, 5 U.S.C. 553(d) (1) and (2).

8. In view of the above, it is ordered, That §§ 81.362, 83.38, 83.442, 83.445 and 83.454 of the rules are amended, as set forth in the attached appendix effective May 22, 1984.

9. Regarding questions on matters covered in this document contact Nicholas G. Bagnato, telephone (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA PUBLIC FIXED STATIONS

§ 81.362 [Removed]

Part 81 is amended by removing § 81.362.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.38(c) is revised to read as follows:

§ 83.38 Assignment of call signs.

* * * * *

(c) Ship stations operating under temporary authority on ships which are documented by the United States Coast Guard and which were previously assigned call signs consisting of four letters will retain the same call sign.

* * * * *

2. Section 83.442 is revised to read as follows:

§ 83.442 Radio station.

The radio station required by Title III, Part II of the Communications Act or the Safety Convention must consist of:

(a) A radiotelegraph station comprised of a main and reserve radiotelegraph installation, electrically separate and electrically independent of each other. The reserve installation must be connected to a reserve source of energy completely independent of the propelling power of the ship and the ship's electrical system. The main and reserve installations may share ancillary components, such as metering devices, which are not essential to the operation of the transmitter. This sharing of ancillary components satisfies the requirements of §§ 83.552(d) and 83.553(d).

(b) A ship radar station meeting the provisions of § 83.464.

(c) A radiotelephone station capable of transmitting and receiving on the radiotelephone distress frequency.

3. In § 83.445 footnote 1 is removed and paragraphs (a) and (e) are revised to read as follows:

§ 83.445 Requirements of radiotelephone installation.

* * * * *

(a) The radiotelephone transmitter must be capable of transmitting on 2182 kHz clearly perceptible signals from ship to ship during daytime under normal conditions and circumstances over a minimum normal range of 150 nautical miles. Additionally, it must be capable of transmitting on one other frequency in the band 1605–4000 kHz. The transmitter shall:

* * * * *

(e) The automatic device for generating the radiotelephone alarm signal must be tested weekly on frequencies other than the radiotelephone distress frequency using a suitable artificial antenna.

* * * * *

4. In § 83.454 paragraph (c) is amended by adding a sentence to the end of the paragraph to read as follows:

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[1] *Documentation of Vessels*, 47 FR 27490, June 24, 1982.

[2] *See Report and Order*, PR Docket No. 79-336, released February 24, 1982, 47 FR 10220.

§ 83.454 Installation of radiotelegraph auto alarm.

* * * * *

(c) * * * However ships operating pursuant to the general exemption contained in § 83.480(c) may install an additional switch on the bridge for stopping the audible warning apparatus.

* * * * *

[FR Doc. 84-13813 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[FCC 84-220]

Transmitter Frequency Tolerances in the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the rules with respect to frequency tolerances in the Aviation Services to conform to the provisions of the Final Acts of the World Administrative Radio Conference, Geneva, 1979.

EFFECTIVE DATE: May 22, 1984.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 87

Aeronautical stations, Communications equipment, Radio.

Order

In the matter of transmitter frequency tolerances in the aviation services.

Adopted: May 15, 1984.
Released: May 22, 1984.

By the Commission.

1. This proceeding modifies the Aviation Services transmitter frequency tolerances of Part 87 of the Commission's Rules and Regulations to conform to the Final Acts of the World Administrative Radio Conference, Geneva, 1979 (WARC '79). The Final Acts of WARC '79 became effective internationally on January 1, 1982, for administrations that had ratified the treaty. The United States ratified the WARC '79 on September 6, 1983. Accordingly, we are now amending § 87.65 of the rules.

2. The Commission adopted a Fifth Notice of Inquiry (NOI) in General Docket 80-739 on May 13, 1982 (FCC 82-213, 47 FR 25982) which was released on June 7, 1982. This NOI published the "Table of Transmitter Frequency Tolerances" resulting from WARC '79 and solicited comments concerning, among other things, transmitter frequency tolerances. No comments applicable to frequency tolerances in the Aviation Services were received.

3. The Federal Aviation Administration (FAA) has proposed a three-phase plan for the implementation of 25 kHz channel spacing in the 118-136 MHz band.[1] The primary effect on aviation users will be that aircraft not equipped with 25 kHz channeled transmitters may encounter rerouting and delays, particularly in congested en route and terminal areas. This Order is compatible with the FAA's 25 kHz channel spacing plan and will ensure that United States aircraft will be equipped to receive full air traffic control services by January 1, 1990.

4. The amendments contained in § 87.65 of the Appendix contain three noteworthy changes:

a. WARC '79 allocated the band 136.0 to 137.0 MHz to the Aeronautical Mobile Service.[2] Since this allocation is adjacent to a prior Aeronautical Mobile Service allocation, we have moved the band edge from 136 MHz to 137 MHz.

b. The frequency tolerance for radionavigation stations in the 100 to 136 MHz band is presently incorrectly listed as 50 parts in 10^6. We are correcting the frequency tolerance to read 20 parts in 10^6 which is compatible with equipment now authorized for use by the FAA in this band.

c. The table of frequency tolerances indicates a frequency tolerance of 20 parts in 10^6 for "Land stations" in the band 960 to 1215 MHz. Use of the term "Land stations" in this instance is not appropriate. It should read "Radionavigation stations." Accordingly, we are making this correction.

5. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Since the amendments implement the provisions of an international treaty as found in Appendix 7 of the International Telecommunication Union (ITU) Radio Regulations, Edition of 1982, the public notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply.

[1] See FAA General Notice, 48 FR 39194, August 29, 1983.

[2] Until January 1, 1990, the band 136-137 MHz is allocated as an alternative allocation to the space operation (space-to-earth), meteorological-satellite service (space-to-earth) and the space research service (space-to-earth) on a primary basis. After January 1, 1990, no new assignments will be made to the above space services and existing stations will become secondary to the aeronautical mobile (R) service stations as the latter service is introduced in the band.

6. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective May 22, 1984.

7. Regarding questions on matters covered by this document, contact Robert E. Mickley, telephone (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. Section 87.65 is amended by removing the note and its designator in paragraph (c)(2)(ii) and by revising paragraph (a) to read as follows:

§ 87.65 Frequency stability.

(a) Except as provided in paragraphs (c), (d), and (f) of this section, the carrier frequency of each station in the Aviation Services must be maintained within the tolerances given below:

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations	Tolerance [1]	Tolerance [2]
(1) Band—9 to 535 kHz:		
Aeronautical stations	100	100
Aircraft stations	200	100
Survival craft stations on 500 kHz	5,000	[3] [10]20
Radionavigation stations	100	100
(2) Band—1605 to 4000 kHz:		
Aeronautical fixed stations:		
Power 200 W or less	100	[9] 100
Power above 200 W	50	[9] 50
Aeronautical stations:		
Power 200 W or less	[8] 100	[3] [9]100
Power above 200 W	[8] 50	[3] [9]50
Aircraft stations	[8] 100	[8] 100
Survival craft stations on 2182 kHz	200	[3] [10]20
(3) Band—4 to 29.7 MHz:		
Aeronautical fixed stations:		
Power 500 W or less	50	
Power above 500 W	15	
Single-sideband and Independent-sideband emission:		
Power 500 W or less		[10] 50
Power above 500 W		[10] 20
Class F1B emissions		[10] 10
Other classes of emission:		
Power 500 W or less		20
Power above 500 W		10
Aeronautical stations:		
Power 500 W or Less	[8] 100	[8] 100
Power above 500 W	[8] 50	[8] 50
Aircraft stations	[8] 100	[8] 100
Survival craft stations on 836 kHz	200	[3] [10]50
(4) Band—29.7 to 100 MHz:		
Aeronautical fixed stations:		
Power 200 W or less	50	
Power above 200 W	30	
Power 50 W or less		30
Power above 50 W		20
Operational fixed stations:		
73-74.6 MHz (Power 50 W or less)	50	30
73-74.6 MHz (Power above 50 W)	20	20
72-73.0 MHz and 75.4-76.0 MHz	5	5
Radionavigation stations	100	50
(5) Band—100 to 137 MHz:		
Aeronautical stations	[4] 50	20
Emergency locator transmitter test stations	50	50

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations	Tolerance [1]	Tolerance [2]
Survival craft stations on 121.5 MHz	50	50
Emergency locator stations	50	50
Aircraft and other mobile stations in the Aviation Services	[3] 50	30
Radionavigation stations	20	20
(6) Band—137 to 470 MHz:		
Aeronautical stations	50	20
Survival craft stations on 243 MHz	50	50
Aircraft stations	50	30
Radionavigation stations	[4] 50	[4] 50
(7) Band—470 to 2450 MHz:		
Aeronautical stations	100	20
Aircraft stations	100	20
Radionavigation stations:		
470–960 MHz	[4] 500	[4] 500
960–1215 MHz	20	20
1215–2450 MHz	[4] 500	[4] 500
(8) Band—2450 to 10500 MHz:		
Radionavigation stations	[4, 7] 1250	[4, 7] 1250
(9) Band—10.5 GHz to 40 GHz:		
Radionavigation stations	[4] 5000	[4] 5000

NOTES

[1] The tolerance shown in this column is the maximum tolerance permitted for transmitters until January 1, 1990, if the transmitters were installed before January 2, 1985, and used at the same installation. Tolerance is indicated in parts in 10 [6] unless shown as Hertz.

[2] Unless otherwise indicated, the tolerance shown in this column is the maximum tolerance permitted after January 1, 1985 for new and replacement transmitters. Tolerance is indicated in parts in 10 [6] unless shown as Hertz.

[3] The tolerance shown is applicable to transmitters first type accepted or type approved after November 30, 1977.

[4] Transmitters type accepted between January 1, 1966, and January 1, 1974, must comply with a 30 parts in 10 [6] tolerance. Transmitters type accepted after January 1, 1974, and stations using offset carrier techniques must comply with a 20 parts in 10 [6] tolerance.

[5] Transmitters type accepted after January 1, 1974, must comply with a 30 parts in 10 [6] tolerance.

[6] Where specific frequencies are not assigned to radar stations, the bandwidth occupied by the emissions of such stations shall be maintained wholly within the band allocated to the service and the indicated tolerance does not apply.

[7] In the 5000 to 5250 MHz band, the FAA requires a tolerance of ±10 kHz for Microwave Landing System stations which are to be a part of the National Airspace System (FAR 171).

[8] For single-sideband transmitters operating in the frequency bands 1605–4000 kHz and 4–29.7 MHz which are allocated exclusively to the Aeronautical Mobile (R) Service, the tolerance on the carrier (reference) frequency is: for aeronautical stations, 10 Hz; for aircraft stations, 20 Hz.

[9] For single-sideband radiotelephone transmitters the tolerance is: in the bands 1605–4000 kHz and 4–29.7 MHz for peak envelope powers of 200 W or less and 500 W or less, respectively, 50 Hz; in the bands of 1605–4000 kHz and 4–29.7 MHz for peak envelope powers above 200 W and 500 W, respectively, 20 Hz.

[10] In Hz.

* * * * *

[FR Doc. 84-13812 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 40562-4062]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery. These regulations are intended to enhance the conservation of Pacific halibut stocks in order to help rebuild and sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: May 18, 1984.

FOR FURTHER INFORMATION CONTACT: J. Craig Hammond, Special Agent in Charge, Law Enforcement Division, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone (907) 586-7221; or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, Washington 98105, telephone (206) 624-1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, D.C. on March 29, 1979), has promulgated new regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada, by Order-in-Council. On behalf of the IPHC, these regulations are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein.

The regulations are similar to those which have previously been in effect under the Convention, but they have been extensively rewritten to make them easier to understand and use. The major substantive changes from previous regulations are as follows: (1) All commercial halibut fishing vessels and charter vessels for sport fishing of halibut must now obtain annual licenses from the IPHC; (2) new halibut fishing seasons and area catch limits are established; (3) Area 4 has been redivided into five, rather than the previous four, smaller areas; (4) new vessel clearance requirements for the various parts of Area 4 are established.

Because approval by the Secretary of State of the IPHC regulations in a foreign affairs function, *Jensen* v. *National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975), 5 U.S.C. 553 of the Administrative Procedure Act, Executive Order 12291, and the Regulatory Flexibility Act do not apply to this notice of the effectiveness and content of the regulations.

List of Subjects in 50 CFR Part 301

Fish, Fisheries.

Dated: May 18, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Chapter III is amended by revising Part 301 to read as follows:

PART 301—PACIFIC HALIBUT FISHERIES

Sec.

301.1 Short title.
301.2 Interpretation.
301.3 Application.
301.4 Regulatory areas.
301.5 Fishing periods.
301.6 Closed periods.
301.7 Closed area.
301.8 Catch limits.
301.9 Size limits.
301.10 Licensing of vessels.
301.11 Vessel clearance and hold inspection.
301.12 Logs.
301.13 Receipt and possession of halibut.
301.14 Fishing gear.
301.15 Retention of tagged halibut.
301.16 Supervision of unloading and weighing.
301.17 Sport fishing for halibut.
301.18 Previous regulations superseded.

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

§ 301.1 Short title.

These Regulations may be cited as the *International Pacific Halibut Convention Regulations.*

§ 301.2 Interpretation.

(a) In these regulations,

Charter vessel means a vessel used for hire in sport fishing for halibut;

Commercial fishing means fishing the resulting catch of which either is or is intended to be sold or bartered;

Commission means the International Pacific Halibut Commission;

Fishing means the taking, harvesting, or catching of fish; the attempted taking, harvesting, or catching of fish; or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

Land with respect to halibut means to bring to shore and to offload;

License means a halibut fishing license issued by the Commission pursuant to §§ 301.10 and 301.17;

Maritime area, in respect of the fisheries jurisdiction of a contracting party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel;

Person includes an individual, corporation, firm, or association;

Regulatory area means an area referred to in § 301.4;

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached;

Sport fishing means all fishing other than commercial fishing.

(b) In these regulations, all bearings are magnetic, unless otherwise stated, and all positions are determined by the most recent charts issued by the United States National Ocean Service or Canadian Hydrographic Service.

§ 301.3 Application.

(a) These regulations apply to persons and vessels fishing for halibut in waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(b) Sections 301.4 to 301.16 apply only to commercial fishing for halibut.

(c) Section 301.17 applies only to sport fishing for halibut.

(d) These regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

§ 301.4 Regulatory areas.

The following areas shall be regulatory areas for the purposes of the Convention:

(a) Area 2A includes all waters off the coasts of the states of California, Oregon, and Washington;

(b) Area 2B includes all waters off the coast of British Columbia;

(c) Area 2C includes all waters off the coast of Alaska that are east of a line running northwest one-quarter west (312°) from Cape Spencer Light (latitude 58°11'57" N., longitude 136°38'18" W.), and south and east of a line running south one-quarter east (177°) from said light;

(d) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (latitude 57°41'15" N., longitude 155°35'00" W.) to Cape Ikolik (latitute 57°17'17" N., longitude 154°47'18" W.), then along the Kodiak Island coastline to Cape Trinity (latitude 56°44'50" N., longitude 154°08'44" W.), then southeast by east one-quarter east (121°);

(e) Area 3B includes all waters between Area 3A and a line extending southeast (135°) from Cape Lutke (latitude 54°29'00" N., longitude 164°20'00" W.);

(f) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in § 301.7 that are east of longitude 172°00'20" W. and south of latitude 56°20'00" N.;

(g) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of latitude 56°20'00" N.;

(h) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.7 which are east of a line extending true northwest (315°) from a point at latitude 56°20'00" N., longitude 170°00'00" W. and west of longitude 168°00'00" W.;

(i) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, and west of Area 4C; and

(j) Area 4E includes all waters in the Bering Sea north of the closed area defined in § 301.7, east of longitude 168°00'00" W., and south of latitude 65°34'00" N.

§ 301.5 Fishing periods.

(a) The fishing periods for each regulatory area are set out in the following table and apply where the catch limits specified in § 301.8 have not been taken:

2A

5/21–6/2	8/21–9/1
6/21–7/3	9/19–9/30
7/22–8/2	

2B

4/24–5/6	7/11–7/22
5/23–6/3	8/7–8/19

2C

5/22–5/25	9/18–10/31
8/20–8/25	

3A–3B

5/21–5/25	9/18–10/31
8/20–8/25	

4A–4B

5/21–5/25	8/2–8/10
6/18–6/21	9/18–10/31

4C

5/21–5/22	6/8–6/9
5/23–5/24	6/10–6/11
5/25–5/26	6/12–6/13
5/27–5/28	6/14–6/15
5/29–5/30	6/16–6/17
5/31–6/1	6/18–6/19
6/2–6/3	6/20–6/21
6/4–6/5	6/22–6/23
6/6–6/7	6/24–6/25
6/26–6/27	9/2–9/3
6/28–6/29	9/4–9/5
6/30–7/1	9/6–9/7
7/2–7/3	9/8–9/9
7/4–7/5	9/10–9/11
7/6–7/7	9/12–9/13
7/8–7/9	9/14–9/15
7/10–7/11	9/16–9/17
7/12–7/13	9/18–9/19
7/14–7/15	9/20–9/21
7/16–7/17	9/22–9/23
7/18–7/19	9/24–9/25
7/20–7/21	9/26–9/27
7/22–7/23	9/28–9/29
7/24–7/25	9/30–10/1
7/26–7/27	10/2–10/3
7/28–7/29	10/4–10/5
7/30–7/31	10/6–10/7
8/2–8/10	10/8–10/9
8/11–8/12	10/10–10/11
8/13–8/14	10/12–10/13
8/15–8/16	10/14–10/15
8/17–8/18	10/16–10/17
8/19–8/20	10/18–10/19
8/21–8/22	10/20–10/21
8/23–8/24	10/22–10/23
8/25–8/26	10/24–10/25
8/27–8/28	10/26–10/27
8/29–8/30	10/28–10/29
8/31–9/1	10/30–10/31

4D

5/21/–5/25	8/2–8/10
6/18–6/28	9/18–10/31

4E

5/21–5/23	8/14–8/16
5/24–5/26	8/17–8/19
5/27–5/29	8/20–8/22
5/30–6/1	8/23–8/25
6/2–6/4	8/26–8/28
6/5–6/7	8/29–8/31
6/8–6/10	9/1–9/3
6/11–6/13	9/4–9/6
6/14–6/16	9/7–9/9
6/17–6/19	9/10–9/12
6/20–6/22	9/13–9/15
6/23–6/25	9/16–9/18
6/26–6/28	9/19–9/21
6/29–7/1	9/22–9/24
7/2–7/4	9/25–9/27
7/5–7/7	9/28–9/30
7/8–7/10	10/1–10/3
7/11–7/13	10/4–10/6
7/14–7/16	10/7–10/9
7/17–7/19	10/10–10/12
7/20–7/22	10/13–10/15
7/23–7/25	10/16–10/18
7/26–7/28	10/19–10/21
7/29–7/31	10/22–10/24
8/2–8/10	10/25–10/27
8/11–8/13	10/28–10/30

(b) Notwithstanding paragraph (a) of this section, where Area 3A is closed on a date before the attainment of the catch limit in Area 3B, Area 3B will close on the same date.

(c) Where Area 3B is closed under paragraph (b) of this section, it shall reopen on the next scheduled opening date on the schedule of fishing periods referred to in paragraph (a) of this section and continue on that schedule until the catch limit specified in § 301.8 is attained.

(d) Each fishing period shall begin and terminate at 1200 hours Pacific standard time on the date set out in the table to

this section, unless the Commission specifies otherwise.

(e) All commercial fishing for halibut shall cease at 1200 hours Pacific standard time on October 31.

§ 301.6 Closed periods.

(a) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in § 301.5 in respect of that area.

(b) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(c) Subject to § 301.14(d), these regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(d) Notwithstanding paragraph (c) of this section, no person shall have halibut in his possession while fishing for any other species of fish during the closed periods.

§ 301.7 Closed area.

All waters in the Bering Sea that are east of a line from Cape Sarichef Light (latitude 54°36'00" N., longitude 164°55'42" W.) to a point at latitude 56°20'00" N., longitude 168°30'00" W., and south of a line from the latter point to Cape Newenham (latitude 58°39'00" N., longitude 162°10'25" W.) are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his possession while in those waters except in the course of a continuous transit across those waters.

§ 301.8 Catch limits.

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.5 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch Limits	
	Pounds	Metric tons
2A	300,000	136
2B	9,000,000	4,082
2C	5,700,000	2,586
3A	18,000,000	8,165
3B	7,000,000	3,175
4A	1,200,000	544
4B	1,000,000	454
4C	400,000	181
4D	400,000	181
4E	50,000	23

(b) The weights in each catch limit shall be computed on the basis that the heads of the fish are off and their entrails removed.

(c) The Commission shall determine and announce to the public the date on which the catch limit for each regulatory area will be taken.

(d) When under paragraph (c) of this section the Commission has announced a date on which the catch limit for a regulatory area will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

§ 301.9 Size limits.

(a) No person shall take or possess any halibut that

(1) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in the schedule, or

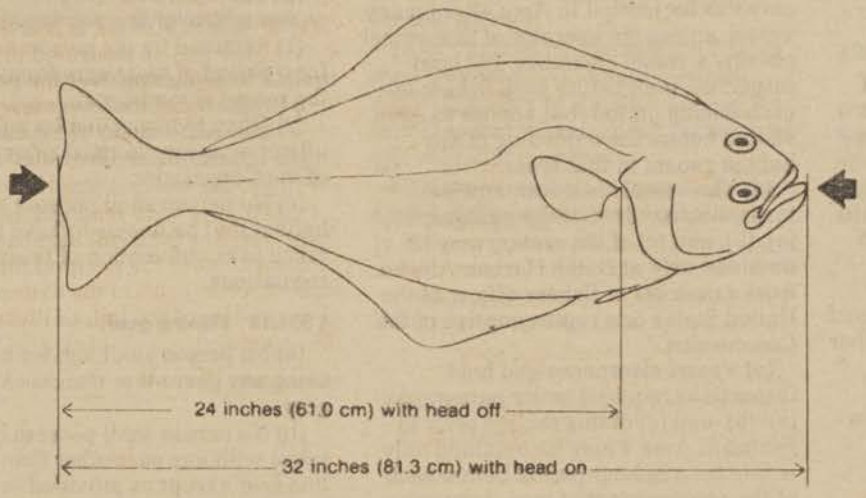
(2) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in the scheduled.

BILLING CODE 3510-22-M

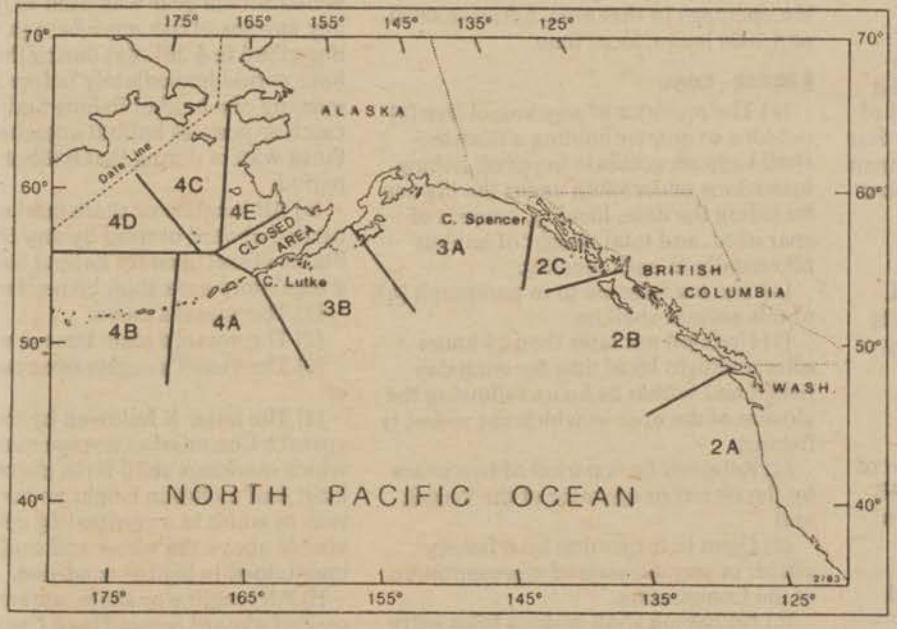
SCHEDULE

Legal Opening and Closing Hours for Halibut Fishing for Standard Time (ST) and Daylight Savings Time (DT) in different Time Zones of the Northeastern Pacific Ocean.

	Time Zone					
	Pacific		Yukon		Alaska	
	PST	PDT	YST	YDT	AST	ADT
Hours	1200	1300	1100	1200	1000	1100



Minimum commercial size.



Regulatory areas for the Pacific halibut fishery.

LLING CODE 3510-22-C

(b) No person shall mutilate or otherwise disfigure a halibut in any manner that prevents the determination of the minimum size of the halibut for the purpose of paragraphs (a)(1) and (2) of this section.

§ 301.10 Licensing of vessels.

(a) The Commission may issue a license in respect of a vessel used for halibut fishing.

(b) No person shall fish for halibut from a vessel, nor possess halibut caught from a vessel, unless the Commission has issued a license in respect of that vessel.

(c) A license issued in respect of a vessel referred to in paragraph (b) of this section must be carried on that vessel at all times and the holder of it shall permit its inspection by customs and fishery officers of the Contracting Parties.

(d) A license shall be issued without fee by the Commission from its office in Seattle, Washington, upon receipt of a completed "Application for Vessel License for the Halibut Fisher" form.

(e) Application forms may be obtained from customs or fishery officers of either contracting party, or from the Commission.

(f) Licenses issued under this section shall be valid only during the year in which they are issued.

(g) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(h) No person shall

(1) Fish for halibut while on board a vessel in respect of which the Commission has issued a license while that vessel is in an area where commercial fishing for halibut is not permitted under there regulations; or

(2) Possess halibut while on board a vessel referred to in paragraph (h)(1) of this section in an area referred to in that paragraph unless that vessel is in transit to or within a port in which that halibut may be lawfully sold.

(i) The license required under this section is in addition to any license, however designated, that is required under the laws of Canada or any of its Provinces or the United States or any of its States.

§ 301.11 Vessel clearance and hold inspection.

(a) No person other than a resident of the coast of Area 4A, 4B, 4C, 4D, or 4E who lands all of his halibut catch at a port within those areas shall fish for halibut in Area 4A, 4B, or 4D from a vessel for which a license is required under these regulations, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing and before the unloading of any halibut caught in Area 4A, 4B, or 4D.

(b) No person other than a resident of the coast of Area 4C who lands all of his halibut catch at a port within that Area may fish for halibut in Area 4C from any vessel, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing in each fishing period that applies to Area 4C and before the unloading of any halibut caught in that area.

(c) No person other than a resident of the coast of Area 4E who lands all of his halibut catch at a port within that Area may fish for halibut in Area 4E from any vessel, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing in each fishing period that applies to Area 4E and before the unloading of any halibut caught in that area.

(d) The vessel clearance and hold inspection required under paragraphs (a), (b), and (c) of ths section may be obtained only at Dutch Harbor, Alaska, from a customs or fishery officer of the United States or a representative of the Commission.

(e) Vessel clearances and hold inspections required under paragraphs (a), (b), and (c) of this section prior to fishing in Area 4 may be obtained only within the 120-hour period before each of the openings in that area, between 0600 and 1800 hours, local time.

(f) Vessel clearances and hold inspections required under paragraphs (a), (b), and (c) of this section after fishing in Area 4 may be obtained only within the 120-hour period after each of the openings in that area, between 0600 and 1800 hours, local time.

§ 301.12 Logs.

(a) The operator of any vessel five (5) net tons or greater holding a license shall keep an accurate log of all fishing operations undertaken under the license including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality.

(b) The log referred to in paragraph (a) of this section shall be

(1) Updated not later than 24 hours after midnight local time for each day fished and within 24 hours following the closure of the area in which the vessel is fishing;

(2) Retained for a period of two years by the owner or operator of the vessel; and

(3) Open to inspection by a fishery officer or any authorized representative of the Commission.

(c) No person shall make a false entry in a log referred to in paragraph (a) of this section.

§ 301.13 Receipt and possession of halibut.

(a) A person who purchases or otherwise receives halibut from the owner or operator of the vessel from which that halibut was caught, either directly from that vessel or through another carrier, shall keep an accurate record of each such purchase or receipt, showing the date, locality, name of vessel and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut.

(b) The record referred to in paragraph (a) of this section shall be

(1) Retained by the person keeping it for a period of two years from the date the record is made; and

(2) Open to inspection by a fishery officer or any authorized representative of the Commission.

(c) No person shall possess any halibut that he knows to have been taken in contravention of these regulations.

§ 301.14 Fishing gear.

(a) No person shall fish for halibut using any gear other than hook and line gear.

(b) No person shall possess halibut taken with any gear other than hook and line gear except as provided in § 301.15.

(c) No person shall possess halibut while on board a vessel containing any fishing gear other than hook and line gear or nets that are used solely for the capture of bait.

(d) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.3(a) during the 120-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(e) All longline or skate marker buoys carried aboard or used by any United States vessel used for halibut fishing in a regulatory area shall be marked with:

(1) The vessel's name,

(2) The vessel's state license number,

(3) The vessel's registration number, or

(4) The letter X followed by the vessel's Commission license number, which markings shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(f) All longline or skate marker buoys carried aboard or used by a Canadian vessel used for halibut fishing in a regulatory area shall be marked as

required by the *British Columbia Fishery (General) Regulations.*

§ 301.15 Retention of tagged halibut.

Nothing contained in these regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an officer of the contracting parties or a state or provincial government.

§ 301.16 Supervision of unloading and weighing.

The unloading and weighing of halibut may be subject to the supervision of a customs officer or other authorized officers to assure the fulfillment of the provisions of these regulations.

§ 301.17 Sport fishing for halibut.

(a) Sport fishing for halibut is only permitted from March 1 to October 31.

(b) No person shall engage in sport fishing for halibut using gear other than a handline or rod with no more than two hooks attached, or a spear.

(c) No person shall catch, possess, or land more than two halibut of any size per day from a vessel that is engaged in sport fishing.

(d) After two halibut have been taken by any person engaged in sport fishing, those halibut shall be landed before that person takes more halibut on any succeeding day.

(e) No halibut caught in sport fishing shall be possessed aboard a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(f) No person shall operate a charter vessel engaged in fishing for halibut unless the Commission has issued a license in respect of that vessel.

(g) A license issued in respect of a vessel referred to in paragraph (f) of this section must be carried on that charter vessel at all times and the holder of it shall permit its inspection by customs and fishery officers of the contracting parties.

(h) A license shall be issued without fee by the Commission from its office in Seattle, Washington, upon receipt of a completed "Application for Vessel License for the Halibut Fishery" form.

(i) Licenses issued under this section shall be valid only during the year in which they are issued.

§ 301.18 Previous regulations superseded.

These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

[FR Doc. 84-13834 Filed 5-18-84; 4:43 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 101
Wednesday, May 23, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 28 and 61

Revision of User Fees for Cotton Classification, Testing, and Standards

Correction

In FR Doc. 84–12973 beginning on page 20507 in the issue of Tuesday, May 15, 1984 make the following correction.

In the second column, last paragraph, last line, "1.5" should read "11.5".

BILLING CODE 1505-01-M

Farmers Home Administration

7 CFR Parts 1944 and 1951

Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to issue for new regulations to prescribe policies and procedures for servicing cases where an unauthorized loan or other financial assistance was received. These regulations will cover all of FmHA's programs and will amend portions of existing regulations which deal with unauthorized interest credits on Section 502 Rural Housing loans and unauthorized loans and grant assistance under Section 504. The regulations will apply to all FmHA loans, grants, and other financial assistance, such as interest subsidies and will set forth detailed procedures for collecting loans, grants, and subsidies which were unauthorized. This action is being taken to establish a set of uniform policies and procedures for servicing unauthorized loan or other cases of financial assistance since formalized procedures are nonexistent. Occasionally, FmHA program review assessments or external audits reveal cases where program recipients were not entitled to the loan or other assistance granted by FmHA. These regulations address such cases and set forth various corrective measures to remedy the violation. This action will have the effect of facilitating the effective servicing of cases falling within the category of unauthorized loans or other assistance.

DATES: Comments must be received on or before July 23, 1984.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348 South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250. All written comments made pursuant to this publication will be available for public inspection at the above address.

The collection of information requirements contained in this rule have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Submit any comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for Farmers Home Administration, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Frances B. Calhoun, Senior Realty Specialist, Single-Family Housing Servicing and Property Management Division, Farmers Home Administration, U.S. Department of Agriculture, Room 5309 South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures set forth in Departmental Regulation 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no major increase in cost or prices for consumers, individual industries, Federal, State, of local government agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement." It is the determination of FmHA that this proposed action does not constitute a major Federal action which significantly affects the quality of the environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an environmental impact statement is not required. Some of the FmHA programs which are affected by these regulations are subject to intergovernmental consultation in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities."

Primary policies and authorities set forth in these regulations are:

(a) An effort will be made to collect all financial assistance which is determined to be unauthorized.

(b) When the recipient of unauthorized assistance does not repay that assistance, if the amount involved is $1,000 or more, the security, if any, should be liquidated, except in cases where it is determined the recipient was not at fault, it would be highly inequitable to require liquidation, and continuation with the loan will not adversely affect FmHA's financial interests; or in any case where it is clearly not in the Government's best financial interest to force liquidation. In those cases alternative options in lieu of calling the loan are outlined for each program.

(c) Appeal rights will be given to the recipient unless the recipient and the servicing official have reached an agreement on satisfactory arrangements for repayment.

(d) In cases where the recipient does not repay the unauthorized assistance at once and liquidation is not required, account adjustments will be made in accordance with the regulation applicable to the type loan involved.

(e) The Administrator, FmHA, will have authority to make exceptions to provision of these Subparts which are not inconsistent with the statute authorizing the FmHA program involved.

Provisions of these regulations require complying changes to Subpart B of Part 1900 and Exhibit D of this Chapter and to Subparts A and J of Part 1944 of this Chapter.

Catalog of Federal Domestic Assistance Titles and Numbers:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facilities Loans

List of Subjects

7 CFR Part 1944

Aged, Home improvement, Low and moderate income housing loans, Loan programs—Housing and community development, Mortgages, Rural housing, Subsidies.

7 CFR Part 1951

Account servicing, Loan programs—Agriculture, Loan programs—Housing and community development, Grant programs—Housing and community development, Rent subsidies, Interest credit.

Accordingly, as proposed, Chapter XVIII, Title 7 of the Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

1. Section 1944.34(j) is revised to read as follows:

§ 1944.34 Interest credit.

* * * * *

(j) *Unauthorized interest credits.* When it is determined that a borrower has received interest credit to which he/she was not entitled (unauthorized interest credits), the case will be serviced according to Subpart M of Part 1951 of this Chapter.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

2. Section 1944.473 is revised to read as follows:

§ 1944.473 Unauthorized loans and/or grants.

Unauthorized loans and/or grants are those where it is determined the recipient was not eligible for the assistance received or where loan and/or grant was approved for unauthorized purposes. A case of this type will be serviced according to Subpart M of Part 1951 of this Chapter.

3. Subparts L, M, N, and O are added to Part 1951 and read as follows:

PART 1951—SERVICING AND COLLECTIONS

* * * * *

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

Sec.

1951.551 Purpose.
1951.552 Definitions.
1951.553 Policy.
1951.554–1951.555 [Reserved]
1951.556 Initial determination that unauthorized assistance was received.
1951.557 Notification to borrower.
1951.558 Decision on servicing actions.
1951.559–1951.560 [Reserved].
1951.561 Servicing options in lieu of liquidation or legal action.
1951.562–1951.567 [Reserved]
1951.568 Servicing unauthorized assistance accounts.
1951.569 Exception authority.
1951.570–1951.600 [Reserved]

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

§ 1951.551 Purpose.

This Subpart prescribes the policies and procedures for servicing insured Farmer Programs (FP) loans made by Farmers Home Administration (FmHA) when it is determined that the borrower was not eligible for all or part of the financial assistance received in the form of a loan or subsidy granted. It does not apply to guaranteed loans.

§ 1951.552 Definitions.

As used in this Subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without borrower being released from liability or where liquidation did not satisfy the indebtedness.

(b) *Assistance.* Financial assistance in the form of a loan or interest subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note or assumption agreement.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former active borrower whose loan(s) has(have) been paid in full or assumed by another party(ies), and who does not have an outstanding account in the records of the Finance Office.

(g) *Unauthorized assistance.* Any loan or interest subsidy received for which there was no authorization, for which the borrower was not eligible, or for which there were no funds authorized or appropriated for the loan purpose at the time it was approved. An unauthorized interest subsidy is a benefit received through a loan that was made at a lower interest rate than that to which the borrower was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

§ 1951.553 Policy.

When it is determined that unauthorized assistance has been received, an effort must be made to collect from the borrower the sum which is determined to be unauthorized, regardless of amount.

§§ 1951.554–1951.555 [Reserved]

§ 1951.556 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA, (OIG); through reviews made by FmHA personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a borrower. If FmHA has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case will be referred to the Office of the General Counsel (OGC) or the National Office, as appropriate, for review and advice. In every case where it is known or believed by FmHA that the assistance was based on false information, investigation by the OIG will be requested, as provided for in FmHA Instruction 2012–B (available in any FmHA office). If OIG conducts an investigation, the actions outlined in

§ 1951.557 of this Subpart will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the borrower will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the borrower;

(b) Submission of false information by the borrower;

(c) Submission of inaccurate or false information by another party on the borrower's behalf such as a seller, developer, real estate broker, or attorney, when the borrower did not know the other party had submitted inaccurate or false information;

(d) Error by FmHA personnel, either in making computations or failure to follow published regulations or other agency issuances; or

(e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

§ 1951.557 Notification to borrower.

(a) Collection efforts will be initiated by the County Supervisor by a letter substantially similar to Exhibit A of this Subpart (available in any FmHA office), and mailed to the borrower by "Certified Mail, Return Receipt Requested," with a copy to the State Director; and, for a case identified in an OIG audit report, copies to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all borrowers who received unauthorized assistance, regardless of amount. The letter will:

(1) Specify in detail the reason(s) the assistance was determined to be unauthorized;

(2) State the amount of unauthorized assistance to be repaid according to Exhibit D of this Subpart (available in any FmHA office); and

(3) Establish an appointment for the borrower to discuss with the County Supervisor the basis for FmHA's claim; and give the borrower an opportunity to provide facts, figures, written records or other information which might refute FmHA's determination that the assistance received was unauthorized.

(b) If the borrower meets with the County Supervisor, the County Supervisor will outline to the borrower why the assistance was determined to be unauthorized. The borrower will be given an opportunity to provide information to refute FmHA's findings. When requested by the borrower, the County Supervisor may grant additional time for the borrower to assemble documentation. When an extension is granted, the County Supervisor will specify a definite number of days to be allowed and establish the follow up necessary to assure that servicing of the case continues without undue delay.

§ 1951.558 Decision on servicing actions.

When the County Supervisor is the same official who approved the unauthorized assistance, the District Director must review the case before further actions are taken by the County Supervisor.

(a) If the borrower agrees with FmHA's determination and agrees to repay in a lump sum, the County Supervisor may allow a reasonable period of time (not to exceed 90 days) for the borrower to arrange for repayment. The amount due will be the amount stated in the Exhibit A letter (available in any FmHA office). The County Supervisor will remit collections to the Finance Office according to the Forms Manual Insert (FMI) for Form FmHA 451–2, "Schedule of Remittances," for application to the borrower's account as an extra payment. In the case of unauthorized assistance which was identified in an OIG audit, the County Supervisor will report the repayment as outlined in §1951.568(a) of this Subpart.

(b) If the borrower agrees with FmHA's determination or is willing to repay but cannot repay the unauthorized assistance in a lump sum within a reasonable period of time, continuation may be authorized. Servicing actions outlined in §1951.561 of this Subpart will be taken, provided all of the following conditions are met:

(1) The borrower was not at fault;

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(3) Failure to collect the unauthorized assistance in full will not adversely affect FmHA's financial interests.

(c) If the borrower does not agree with FmHA's determination, or fails to respond to the initial letter prescribed in § 1951.557 within 30 days, the County Supervisor will notify the borrower by letter substantially similar to Exhibit B of this Subpart (available in any FmHA office) (sent by Certified Mail, Return Receipt Requested), with a copy to the State Director; and for a case identified in an OIG audit report, copies will also be sent to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will state:

(1) The amount of assistance finally determined by FmHA to be unauthorized;

(2) What further actions will be taken by FmHA, as outlined in paragraph (e)(1) or (e)(2) of this section; and

(3) The borrower's appeal rights as prescribed in Exhibit B (available in any FmHA office) of this Subpart.

(d) Appeals resulting from the letter prescribed in paragraph (c) of this section will be handled according to Subpart B of Part 1900 of this Chapter. All appeal provisions will be concluded before proceeding with further actions. If the borrower does not prevail an appeal, or when an appeal is not made within the time allowed, the County Supervisor will proceed with the actions outlined in paragraph (e) of this section, as applicable. If, during the course of appeal, the appellant decides to agree with FmHA's findings or is willing to repay the unauthorized assistance, the servicing official will proceed with the actions outlined in paragraph (a) or (b) of this section.

(e) When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the borrower refuses to execute the documents necessary to make account adjustments or establish an obligation to repay the unauthorized assistance as provided in § 1951.561 of this Subpart, one of the following actions will be taken:

(1) *Active borrower with a secured loan.*

(i) The County Supervisor will attempt to have the borrower liquidate voluntarily. If the borrower agrees to liquidate voluntarily, this will be documented by an entry in the running record of the case file. Where real property is involved, a letter will be prepared by the servicing official and signed by the borrower agreeing to voluntary liquidation. For cases where chattel property is involved, Form FmHA 455–4, "Agreement for Voluntary Liquidation of Chattel Security," will be executed by the borrower. For organizations, a resolution of the governing body may be necessary in addition to the running record notation. If the borrower does not agree to voluntary liquidation, or agrees but cannot accomplish it within a reasonable period of time (usually not more than 90 days), forced liquidation action will be recommended in accordance with Subpart A of Part 1955 of this Chapter unless:

(A) The amount of unauthorized assistance outstanding is less than $1,000; or

(B) It can be clearly documented that it would not be in the best financial interest of the Government to force liquidation. If the servicing official

wishes to make an exception to forced liquidation under this subparagraph (1)(i)(B), a request for an exception under § 1951.569 of this Subpart will be made.

(ii) When all of the conditions of paragraphs (a) or (b) of this section are met, but the borrower does not repay or refuses to execute documents to effect necessary account adjustments according to the provisions of § 1951.561 of this Subpart, liquidation action will be initiated as provided in paragraph (e)(1)(i) of this section.

(iii) When forced liquidation would be initiated except that the loan is being handled under paragraph (e)(1)(i) (A) or (B) of this section, account adjustments will be made by FmHA without the signature of the borrower according to § 1951.568 (a)(5) of this Subpart. In these cases, the borrower will be notified by letter of the actions taken with a copy of Form FmHA 1951–12, "Correction of Loan Account," or 1951–13, "Change in Interest Rate," as applicable, enclosed to reflect the adjustments.

(2) *Inactive borrower or active borrower with unsecured loan (such as collection-only or unsatisfied balance after liquidation).* The County Supervisor will document the facts in the case and submit it to the State Director who will request the advice of OGC on pursuing legal action to effect collection. The State Director should tell OGC what assets, if any, are available from which to collect.

§ 1951.559–1951.560 [Reserved]

§ 1951.561 Servicing options in lieu of liquidation or legal action.

When all of the conditions outlined in § 1951.558(b) of this Subpart are met, servicing options outlined in this section will be considered; and accounts will be serviced according to this section and § 1951.568 of this Subpart.

(a) *Active borrower*—(1) *Entire loan unauthorized.* When the entire loan is determined to be unauthorized because the borrower was not eligible for the type loan received or because the loan was approved for unauthorized purposes, the following alternatives will be considered in the order listed:

(ii) Executive of Form FmHA 1965–11, "Accelerated Repayment Agreement," according to § 1951.26(e) of Subpart A of Part 1965 of this Chapter, for loans secured by real estate; or rescheduling through use of Form FmHA 1951–4, "Change in Rates and Terms," according to § 1951.33, of Subpart A of Part 1951 of this Chapter, for loans not secured by real estate, based on the borrower's repayment ability.

(ii) Refinancing with another type of FmHA loan to repay the unauthorized loan, if the borrower is eligible for the type loan being considered.

(iii) When the case cannot be handled according to subparagraphs (a)(1) (i) or (ii) of this paragraph, continuation with the loan on the existing terms may be approved, and the loan will, thereafter, be serviced as an authorized loan, if a feasible plan of operation can be projected.

(iv) When a feasible plan of operation cannot be projected:

(A) Voluntary liquidation; or

(B) Forced liquidation.

(2) *Portion of loan unauthorized.* When a portion of a loan is determined to be unauthorized, the Finance Office will be instructed to separate the authorized and unauthorized portions of the loan, setting up each as a separate loan at the correct interest rate. The correct interest rate will be taken from Exhibit C of this Subpart (available in any FmHA office) as of the date of loan approval. All payments made on the loan being corrected will be reversed and reapplied to the unauthorized portion. If after reapplication of payments the unauthorized portion is not paid in full, the options outlined in paragraph (a) of this section may be considered for repayment of the balance of the unauthorized portion; and the authorized portion may be rescheduled or reamortized. See § 1951.568 for instructions on setting up separate accounts.

(3) *Unauthorized interest subsidy benefits received.* When the borrower was eligible for the loan, but should properly have been charged a higher interest rate than that shown in the debt instrument on all or a portion of the loan, resulting in the receipt of unauthorized interest subsidy benefits, the case will be handled as outlined below. The unauthorized interest rate will be corrected to the interest rate in effect on the date the original loan was approved as outlined in paragraph (a)(3)(iii) of this section.

(i) When a subsidized interest rate was incorrectly charged on the entire loan, all payments made will be reversed and reapplied at the correct interest rate; and future installments will be scheduled at the correct interest rate. A delinquency created by this action will be serviced according to the loan servicing regulations for the type loan involved. After reapplication of payments, the loan will be treated as an authorized loan and may be rescheduled or reamortized.

(ii) When a subsidized interest rate was incorrectly charged on only a portion of the loan, the Finance Office will be instructed by the County Supervisor to separate the loan into two portions, with the correct interest rate established for the portion having the incorrect subsidized interest rate. All payments made on the loan being adjusted will be reversed and reapplied, first to the portion with the corrected interest rate. After reapplication of payments at the correct interest rate, a delinquency created on either or both portion(s) may be rescheduled or reamortized according to applicable servicing regulations. Both portions will thereafter be treated as authorized loans.

(iii) Incorrect interest rates will be corrected as follows referring to Exhibit C of this Subpart (available in any FmHA office) for interest rates in effect on specific dates:

(A) For disaster Emergency (EM) loans, to the rate for EM annual production loans.

(B) For Operating loans—Limited Resource (OL-LR), to the rate for regular Operating loans (OL).

(C) For Farm Ownership—Limited Resource (FO-LR), to the regular Farm Ownership (FO).

(D) For all other types of FP loans, to the correct rate for the type loan involved which was in effect when the loan was approved.

(4) *Servicing cases where the borrower has both authorized and unauthorized loans outstanding.* After adjustments outlined in paragraphs (a) (1), (2), or (3) of this section, as appropriate, are completed, an authorized loan be rescheduled or reamortized according to applicable servicing regulations to coincide with the borrower's repayment ability. However, a loan was serviced according to this Subpart as an unauthorized loan *will not be consolidated* with other loans.

(b) *Inactive borrower.* When the individual or entity does not have an outstanding account in the records of the Finance Office, the following actions will be taken:

(1) Have the inactive borrower execute a promissory note in the amount of the assistance determined to be unauthorized according to § 1951.557. This note will bear interest at the rate which was in effect for the type loan associated with the unauthorized assistance when it was approved. The term will not exceed 10 years or the term of the original loan, whichever is the shorter term.

(2) Take the best lien obtainable on any collateral having equity value to secure the note.

§§ 1951.562–1951.567 [Reserved]

§1951.562 Servicing unauthorized assistance accounts.

When a final determination has been made that unauthorized assistance has been granted, the Finance Office will be notified of necessary account adjustments as outlined in this section, depending upon whether the case of unauthorized assistance was identified by OIG in an audit report or by another means. The Finance Office will service the accounts as prescribed in this section.

(a) *Audit cases.* Only cases of unauthorized assistance identified by OIG will be reported to the Finance Office by submission of Form FmHA 1951–12 completed in accordance with the FMI. The Finance Office will flag the account for monitoring and reporting as required. Each payment reversed will be reapplied as of the original date of credit. "Loan" refers to an account with an active borrower unless specified as "inactive." If the borrower has arranged to repay in a lump sum the payment will be remitted with Form FmHA 451–2, according to the FMI. Form FmHA 1951–12 will reflect the amount and the Schedule Number.

(1) *Entire loan unauthorized.* When the entire loan is unauthorized because the borrower was not eligible or because the loan was approved for unauthorized purposes, and continuation is authorized, the Finance Office will be advised as follows:

(i) *Accelerated repayment agreement or loan rescheduled.* If the borrower has executed Form FmHA 1965–11, "Accelerated Repayment Agreement," for loans secured by real estate; or has excuted Form FmHA 1951–4 for loans not secured by real estate, the form(s) will be prepared and distributed according to the FMIs, attaching the original form(s) to Form FmHA 1951–12.

(ii) *Continuation with loan on existing terms.* When it is determined that all the conditions outlined in §1951–558(b) of this Subpart are met and continuation with the loan on the existing terms is approved, the servicing official will submit Form FmHA 1951–12 to the Finance Office to reflect this.

(2) *Portion of loan unauthorized.* When a loan is to be separated into authorized and unauthorized portions, the authorized portion will retain the original loan number, and the original principal amount will be reduced by the authorized amount. A new loan in the unauthorized amount will be established as the unauthorized loan with the next available number assigned by the Finance Office. Payments made on the loan being adjusted will be reversed and reapplied first to the unauthorized loan. If the reapplication of payments does not pay the unauthorized loan in full, upon receipt of Forms FmHA 451–26, "Transaction Record," showing the balances of the authorized and unauthorized loans, the servicing official will proceed under the provisions of § 1951.561(a)(2) and will submit a revised Form FmHA 1951–12 (along with a copy of the original Form FmHA 1951–12).

(3) *Unauthorized subsidy benefits received.*—(i) *Entire loan.* When the interest rate on an entire loan is changed, Form FmHA 1951–12 will be submitted to notify the Finance Office of the correct interest rate to be charged from the original loan closing date. Payments made will be reversed and reapplied at the correct interest rate, after which the unauthorized subsidy benefits will be reported to OIG as resolved. The loan will then be treated as an authorized loan.

(ii) *Portion of loan.* When the interest rate on only a portion of a loan must be changed, the portion which has the incorrect interest rate will be established as a new loan at the correct interest rate shown on Form FmHA 1951–12. Payments made on the loan being adjusted will be reversed and reapplied first to the loan with the corrected interest rate. Both loans will then be treated as authorized loans, and a delinquency created on either or both loans(s) will be serviced according to the servicing regulations for the type loan involved.

(4) *Liquidation pending.* When liquidation is initiated under the provisions of this Subpart, Form FmHA 1951–12 will be submitted to advise the Finance Office to establish the unauthorized assistance account. This account will be flagged "FAP" (Foreclosure Action Pending) or "CAP" (Court Action Pending), as applicable.

(5) *Liquidation not initiated.* Cases in which liquidation would normally be initiated, but where it is not because of the provisions of § 1951.558(e)(1)(i) (A) or (B) of this Subpart, will adjusted according to §1951.561 (a)(2) or (a)(3) of this Subpart and this section. and the adjustments will be reflected on Form FmHA 1951–12. In this instance *only*, account adjustments will be made even though the borrower does not sign Form FmHA 1951–12 and any related documents.

(6) *Establishment of account of inactive borrower.*

(i) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, Form FmHA 1951–12 will reflect this, and the Finance Office will establish or the account according to the terms indicated will establish or the account according to the terms indicated on Form FmHA 1951–12.

(ii) When a judgement is obtained against such a borrower Form FmHA 1955–20, "Notice of Judgment," will be prepared and distributed in accordance with the FMI to establish a judgment account.

(7) *Payments on authorized and unauthorized loans concurrently.* When a borrower has both authorized and unauthorized loans outstanding, installments may be scheduled to be paid concurrently on all loans. Payments may be adjusted by means of rescheduling or reamortizing to coincide with the borrower's repayment ability according to servicing regulations for the type loan involved. Payments received will be applied first to the unauthorized loan account to maintain it current, with the remainder of the payment applied to the other loan(s).

(8) *Reporting.* At prescribed intervals, the Finance Office will report to the OIG on the status of cases involving unauthorized assistance which were identified by OIG in audit reports. For reporting purposes, the following applies:

(i) For an unauthorized loan account established as provided in paragraphs (a) (1), (2), or (6) of this section, reporting will be as follows:

(A) When unauthorized assistance is paid in full, it will be reported on the next scheduled report *only*.

(B) When unauthorized assistance is to be repaid under an accelerated repayment, the collections and status will be included on each scheduled report until the account is paid in full.

(C) When continuation with the loan on existing terms is approved, or after a loan is rescheduled it will be reported on the next scheduled report, and no further reporting is required.

(ii) For unauthorized subsidy cases as provided in paragraphs (a)(3) of this section, when the unauthorized amount has been repaid, or payments have been reversed and reapplied at the correct interest rate, the unauthorized subsidy will be reported as resolved on the next scheduled report. No further reporting is required.

(iii) When an account is established with liquidation action pending as provided in paragraph (a)(4) of this section, the status will be included on each scheduled report until the liquidation is completed or the account is otherwise paid in full.

(iv) When liquidation is not initiated as provided in paragraph (a)(5) of this section, it will be reported on the next

scheduled report (along with collections, if any). No further reporting is required.

(b) *Nonaudit cases.* Basically, servicing options which may be used are the same for audit and nonaudit cases; however, when receipt of unauthorized assistance is identified by a means other than an OIG audit report, the Finance Office will be notified only if adjustments to an account or reinstatement of an inactive account are necessary. Once adjustments are made as provided in this paragraph, the loan(s) will be treated as an authorized loan(s). Each payment reversed will be reapplied as of the original date of credit. After payments are reversed and reapplied, the servicing official will receive Forms FmHA 451–26 from the Finance Office reflecting the account status.

(1) Account adjustments will be handled as follows:

(i) When a change in interest rate is necessary, retroactive to the date of loan closing on all or a portion of a loan, Form FmHA 1951–13, will be completed according to the FMI and submitted to the Finance Office. Payments will be reversed and reapplied accordingly.

(ii) For accounts to be rescheduled or reamortized, Form FmHA 1951–4, or 1965–11, as applicable, will be prepared and submitted in accordance with the respective FMI.

(iii) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, the County Supervisor will notify the Finance Office by memorandum, attaching a copy of the promissory note. The Finance Office will establish or reinstate the account according to the terms of the promissory note.

(iv) If a loan is paid in full, the remittance will be handled in the same manner as any other final payment.

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragraph (b)(1) of this section will be serviced according to the applicable servicing regulations for the type loan involved.

§ 1951.569 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the Assistant Administrator, Farmer Programs. Requests will be supported with documentation explaining the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.570–1951.600 [Reserved]

Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing

Sec.

1951.601 Purpose.
1951.602 Definitions.
1951.603 Policy.
1951.604 Categories of unauthorized SFH assistance.
1951.605 [Reserved]
1951.606 Initial determination that unauthorized assistance was received.
1951.607 Notification to recipient.
1951.608 Decision on servicing actions.
1951.609–1951.611 [Reserved]
1951.612 Servicing options in lieu of liquidation or legal action to collect.
1951.613–1951.617 [Reserved]
1951.618 Servicing unauthorized assistance accounts.
1951.619 Exception authority.
1951.620–1951.650. [Reserved]

Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing

§ 1951.601 Purpose.

This Subpart prescribes the policies and procedures for servicing Single-Family Housing loans and/or grants made by Farmers Home Administration(FmHA) when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. It does not apply to guaranteed loans.

§ 1951.602 Definitions.

As used in this Subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability or foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Financial assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has(have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* "Recipient" refers to an individual or entity that received a loan, an interest subsidy, or a grant which was unauthorized.

(h) *Servicing official.* For all Single-Family Rural Housing (SFH) loans or grants to individuals, the servicing official is the County Supervisory; for all other types of loans or grants, the servicing official is the District Director or an Assistant District Director so designated.

(i) *Unauthorized assistance.* Any loan, interest subsidy, or grant received by a borrower or grantee for which there was no authorization, for which the recipient was not eligible, or for which there were no funds authorized or appropriated for the assistance at the time it was approved. Interest subsidy includes interest credits, and subsidy benefits received because a loan was made at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

§ 1951.603 Policy.

When unauthorized assistance has been received, an effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount.

§ 1951.604 Categories of unauthorized SFH assistance.

(a) Unauthorized SFH assistance includes but is not limited to these categories:

(1) *Section 502 loan:*

(i) The recipient was not eligible for a loan.

(ii) The recipient was eligible for a loan but had an income in a category for which there were no funds available at the time the loan was approved, and the loan was obligated from funds designated for another income category. For example, an otherwise-eligible recipient with above-moderate income who received a loan from low- or moderate-income funds. This does not

include a loan obligated as low-income where the income rose to moderate prior to closing provided the case was handled according to § 1944.33(a) of Subpart A of Part 1944 of this Chapter.

(iii) The recipient was eligible and the loan was made for authorized purposes but the recipient received unauthorized subsidy benefits because the loan was closed at an interest rate lower than the correct rate in effect when the loan was approved.

(iv) The loan was made for unauthorized purposes including but not limited to the following:

(A) To buy or improve income-producing land; or buy, build or improve income-producing buildings or finance a building not essential for RH purposes.

(B) To buy, build, or improve a dwelling which exceeds modest standards for size, design, and cost as compared to other housing in the locality for low- and moderate-income families as defined in § 1944.16 (a) or (b) of Subpart A of Part 1944 of this Chapter.

(C) To buy or improve a nonfarm tract that exceeds a minimum-adequate site as defined in § 1944.11(c) of Subpart A of Part 1944 of this Chapter.

(D) To refinance debts not meeting the requirements of § 1944.22 of Subpart A of Part 1944 of this Chapter.

(E) To buy, build, or improve with an initial loan, a dwelling located in an area not designated as rural.

(v) Unauthorized or excessive interest credits were granted.

(vi) Where recapture of subsidy was due but:

(A) The loan was assumed by another party without collecting the amount due from the transferor (or without the transferee assuming it); or

(B) Final payment was accepted but did not include the recapture amount due.

(2) *Section 504 loan or grant.*

(i) The recipient was not eligible for a loan or grant.

(ii) The loan or grant was made for unauthorized purposes.

(iii) The recipient obtained more than the statutory maximum amount of loan and/or grant.

(3) *Sections 523 and 524 Rural Housing Site (RHS) loan, Section 523 Self-Help Technical Assistance (TA) grant, and Section 525 Technical and Supervisory Assistance (TSA) grant.*

(i) The recipient was not eligible for the loan/grant.

(ii) The loan or grant was made for unauthorized purposes.

(b) Categories *not* to be considered as unauthorized assistance within the scope of this Subpart include but are not limited to:

(1) The determination is made that the recipient did not have repayment ability for a loan initially.

(2) The determination is made that the recipient could likely have obtained credit elsewhere or financed housing needs with other resources at the outset.

§ 1951.605 [Reserved]

§ 1951.606 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General (OIG), USDA; through reviews made by FmHA personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA assistance. If FmHA has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case will be referred to the Regional Office of the General Counsel (OGC) or the National Office, as appropriate, for review and advice. In every case where it is known or believed by FmHA that the assistance was based on information, investigation by the OIG will be requested as provided for in FmHA Instruction 2012–B (available in any FmHA office). If OIG conducts an investigation, the actions outlined in § 1951.607 of this Subpart wil be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the recipient;

(b) Submission of false information by the recipient;

(c) Submission of inaccurate or false information by another party on the recipient's behalf such as a loan packager, developer, real estate broker, or professional consultants such as engineers, architects, and attorneys, when the recipient did not know the other party has submitted inaccurate or false information;

(d) Error by FmHA personnel, either in making computations or failure to follow published regulations or other agency issuances; or

(e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

§ 1951.607 Notification to recipient.

(a) Collection efforts will be initiated by the servicing official by a letter substantially similar to Exhibit A of this Subpart (available in any FmHA office), and mailed to the recipient by "Certified Mail, Return Receipt Requested," with a copy to the State Director and, for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all recipients who recieved unauthorized assistance, regardless of amount. The letter will:

(1) Specify in detail the reason(s) the assistance was determined to be unauthorized;

(2) State the amount of unauthorized assistance to be repaid according to Exhibit D of this Subpart (available in any FmHA office); and

(3) Establish an appointment for the recipient to discuss with the servicing official the basis for FmHA's claim; and give the recipient an opportunity to provide facts, figures, written records or other information which might alter FmHA's determination that the assistance received was unauthorized.

(b) If the recipient meets with the servicing official, the servicing official will outline to the recipient why the assistance was determined to be unauthorized. The recipient will be given an opportunity to provide information to refute FmHA's findings. When requested by the recipient, the servicing official may grant additional time for the recipient to assemble documentation. When an extension is granted, the servicing official will specify a definite number of days to be allowed and establish the follow up necessary to assure that servicing of the case continues without undue delay.

§ 1951.608 Decision on servicing actions.

When the servicing official is the same individual who approved the unauthorized assistance, the next-higher supervisory official must review the case before further actions are taken by the servicing official.

(a) If the recipient agrees with FmHA's determination or will pay in a lump sum, the servicing official may allow a reasonable period of time (usually not to exceed 90 days) for the recipient to arrange for repayment. The amount due will be the amount stated in the Exhibit A letter. The servicing official will remit collections to the Finance Office according to the Forms Manual Insert (FMI) for Form FmHA 451–2, "Schedule of Remittances," as follows:

(1) In the case of a loan, for application to the borrower's account as an extra payment.

(2) In the case of a grant, as a "Miscellaneous Collection for Application to the General Fund."

(3) In the case of a loan or grant which was identified in an OIG audit, the servicing official will report the repayment as outlined in § 1951.612(b) or § 1951.618(a)(1)(i) of this Subpart as applicable.

(b) In the recipient agrees with FmHA's determination or is willing to pay the amount in question but cannot repay the unauthorized assistance without a reasonable period of time, continuation is authorized and servicing actions outlined in § 1951.612 of this Subpart will be taken provided all of the following conditions are met:

(1) The recipient was not at fault;

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(3) Failure to collect the unauthorized assistance in full will not adversely affect FmHA's financial interests.

(c) If the recipient does not agree with FmHA's determination, or if the recipient fails to respond to the initial letter prescribed in § 1951.607 of this Subpart within 30 days, the servicing official will notify the recipient by letter substantially similar to Exhibit B of this Subpart (available in any FmHA office) (sent by Certified Mail, Return Receipt Requested), with a copy of the State Director, and for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will include:

(1) The amount of assistance finally determined by FmHA to be unauthorized;

(2) A statement of further actions to be taken by FmHA as outlined in paragraph (e)(1) or (e)(2) of this section; and

(3) The appeal rights as prescribed in Exhibit B of this Subpart (available in any FmHA office).

(d) Appeals resulting from the letter prescribed in paragraph (c) of this section will be handled according to Subpart B of Part 1900 of this Chapter. All appeal provisions will be concluded before proceeding with further actions. If the recipient does not prevail on appeal, or when an appeal is not made during the time allowed, the servicing official will proceed with the actions outlined in paragraph (e) of this section, as applicable. If, during the course of appeal, the appellant decides to agree with FmHA's findings or is willing to repay the unauthorized assistance, the servicing official will proceed with the actions outlined in paragraphs (a), (b), or (e) of this section.

(e) When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the recipient refuses to execute the documents necessary to make account adjustments or establish an obligation to repay the unauthorized assistance as provided in § 1951.612 of this Subpart, one of the following actions will be taken:

(1) *Active borrower with a secured loan.*

(i) The servicing official will attempt to have the recipient liquidate voluntarily. If the recipient agrees to liquidate voluntarily, this will be documented by an entry in the running record of the case file. A letter will be prepared by the servicing official and signed by the recipient agreeing to voluntary liquidation. For organizations, a resolution of the governing body may be required in addition to the running record notation. If the recipient does not agree to voluntary liquidation, or agrees but it cannot be accomplished within a reasonable period of time (usually not more than 90 days), forced liquidation action will be initiated in accordance with Subpart A of Part 1955 of this Chapter unless:

(A) The amount of unauthorized assistance outstanding is less than $1,000; or

(B) It can be clearly documented that it would not be in the best financial interest of the Government to force liquidation. If the servicing official wishes to make an exception to forced liquidation under this paragraph (i)(B), a request for an exception under § 1951.619 of this Subpart will be made.

(ii) When all of the conditions of paragraphs (a) or (b) of this section are met, but the recipient does not repay or refuses to execute documents to effect necessary account adjustments according to the provisions of § 1951.612 of this Subpart, liquidation action will be initiated as provided in paragraph (e)(1)(i) of this section.

(iii) When forced liquidation would be initiated except that the loan is being handled under paragraph (3)(1)(i) (A) or (B) of this section, account adjustments will be made by FmHA without the signature of the recipient according to § 1951.618(a)(5) of this Subpart. In these cases, the recipient will be notified by letter of the actions taken with a copy of Form FmHA 1951–12, "Correction of Loan Account," or 1951–13, "Change in Interest Rate" as applicable, enclosed to reflect the adjustments.

(2) *Grantee, inactive borrower, or active borrower with unsecured loan (such as note-only, collection-only, or unsatisfied balance after liquidation).* The servicing official will document the facts in the case and submit it to the State Director who will request the advice of OGC on pursuing legal action to effect collection. The State Director should tell OGC what assets, if any, are available from which to collect.

§§ 1951.609–1951.611 [Reserved]

§ 1951.612 Servicing options in lieu of liquidation or legal action to collect.

As used in this Subpart, SFH includes Section 502 Rural Housing loans and Section 504 Rural Housing loans and grants to individuals, as well as Section 523 and 524 Rural Housing Site (RHS) loans, Section 523 Self-Help Technical Assistance (TA) grants, and Section 525 Technical and Supervisory Assistance (TSA) grants. When the conditions outlined in § 1951.608(b) of this Subpart are met, servicing options outlined in this section may be considered. Accounts will be serviced according to this section and § 1951.618 of this Subpart.

(a) *Servicing SFH cases involving unauthorized assistance.*—(1) *Outstanding Section 502 loan.* Continuation with the loan may be authorized and one of the following servicing actions will be taken as appropriate to the case:

(i) If the recipient's income was above the moderate income level but the recipient was otherwise eligible and the loan was approved for authorized purposes, a loan closed *before* November 30, 1983, will be converted to an "above-moderate" RH loan. A loan in this category which was closed after November 30, 1983, will be converted to an "Other Real Estate" (ORE) loan. In either case, the interest rate from Exhibit C of this Subpart (available in any FmHA office) which was in effect on the date the loan was approved will be used and the final due date of the original loan will be unchanged. The change in interest rate will be accomplished according to § 1951.618 (a)(1)(iii) or (b)(1)(i) of this Subpart, as applicable. If unauthorized interest credits are also involved, that will be serviced simultaneously according to paragraph (a)(2) of this Section so that payments are reversed and reapplied only once. A delinquency created through these actions will be serviced according to Subpart G of Part 1951 of this Chapter.

(ii) If the recipient was eligible for a loan and the loan was approved for authorized purposes but the incorrect interest rate was charged, resulting in receipt of unauthorized subsidy benefits,

the interest rate must be corrected to that which was in effect when the loan was approved. The change in interest rate will be accomplished according to § 1951.618 (a)(1)(iii) or (b)(1)(i) of this Subpart, as applicable. A delinquency which is created through these actions will be serviced according to Subpart G of Part 1951 of this Chapter.

(iii) If the recipient was not eligible for a loan, or if the loan was approved for unauthorized purposes as outlined in paragraph (a)(1)(iv) of § 1951.604 of this Subpart, the recipient may be allowed to enter into an accelerated repayment agreement according to § 1965.125(a)(4) of Subpart C of Part 1965 of this Chapter except that the above-moderate interest rate which was in effect on the date the loan was approved will be used according to Exhibit C of this Subpart. This provision should be used only where repayment ability can be projected. A loan serviced according to this subparagraph will be reclassified as an ORE loan.

(iv) When the case is not serviced according to subparagraph (i), (ii), or (iii) of this paragraph, continuation with the loan on the existing terms is authorized, after which the loan will be serviced as an authorized loan, *except* that, if interest credits are granted in a case where continuation is authorized under the provisions of this paragraph, all subsidy granted will be recaptured to the extent proceeds are available when the property is sold, allowing a deduction for authorized selling expenses only. Where interest credits are granted in cases of this type, the following actions must be taken:

(A) The borrower must agree in writing to the recapture of subsidy as outlined in paragraph (a)(iii) of this section executing an agreement in the format of Exhibit E of this Subpart (available in any FmHA office).

(B) The original executed agreement will be placed in the case file, and the borrower's card in the management system will be marked "All Subsidy Subject to Recapture—See Agreement Attached to Note or Assumption Agreement."

(C) If necessary to secure recapture, a supplemental mortgage will be taken with the advice of OGC.

(D) If the borrower refuses to execute the agreement prescribed in paragraph (a)(1)(iii)(A) of this section, interest credits will *not* be granted on the loan.

(D) If the borrower refuses to execute the agreement prescribed in paragraph (a)(1)(iii)(A) of this section, interest credits will *not* be granted on the loan.

(2) *Unauthorized interest credits.*—(i) *On oustanding loan.* Continuation with the loan is authorized provided the recipient executes the forms necessary to effect correction of the account through reversal and reapplication of payments. The account will be serviced according to § 1951.618(a)(3) of this Subpart.

(ii) *On inactive loan.* Have the recipient execute a promissory note and give the best mortgage obtainable to secure repayment of the unauthorized interest credits. The interest rate will be the same as in the promissory note for the loan which was subsidized through the unauthorized interest credits, and the term will be within the recipient's repayment ability or a maximum of 5 years.

(3) *Outstanding Section 504 loan.*—(i) *Secured loan.* Continuation under the existing terms is authorized.

(ii) *Unsecured loan.* Continuation under the existing terms is authorized, and the best mortgage obtainable will be taken to secure the loan.

(4) *Outstanding Section 523 or 523 Rural Housing Site loan.* When the objectives of the loan can be achieved, continuation under the existing terms is authorized.

(5) *Section 504 grant.* Have the recipient execute a promissory note and the best mortgage obtainable to secure repayment of the unauthorized assistance. The amount will be the grant amount and the terms will be as follows:

(i) If the recipient was eligible for a Section 504 loan at the time the grant was made, the interest rate and term will be the same as if a Section 504 loan had been made instead of a grant.

(ii) If the recipient was not eligible for either a Section 504 loan or grant, or if the grant was made for unauthorized purposes, the note will bear interest at 5 percent for a term of not more than 5 years.

(6) *Section 523 Self-Help Technical Assistance (TA) grant or Section 525 Technical and Supervisory Assistance (TSA) grant.* If the grant objectives can be achieved, continuation under the terms of the grant agreement is authorized. If the grant objectives cannot be achieved and the grant assistance actually paid out is to be repaid as provided in the grant agreement, interest will be charged at the rate specified in the grant agreement for default or 5 percent per annum if the grant agreement does not specify an interest rate for default cases. When grant assistance is to be repaid, no further disbursement of committed funds will be made.

(b) *Collections, recordkeeping, and reporting in connection with repayment of unauthorized grant assistance.* When a recipient is to repay unauthorized grant assistance as provided in paragraphs (a)(5) or (a)(6) of this section, the servicing official must maintain records on the "account" as the Finance Office cannot set up an account for repayment of a grant. The servicing official will attempt to collect the monies due and all collections will be remitted as "Miscellaneous Collections for Application to the General Fund." For cases identified in OIG audits only, the servicing official will report by March 1, June 1, September 1, and December 1 of each year the following information on cases of this type to the State Director: Recipient's name, fund code, audit report number, audit finding number, date of claim, amount of claim, amount collected during the reporting period, and the balance owed on the unauthorized grant assistance.

§§ 1951.613–1951.617 [Reserved]

§ 1951.618 Servicing unauthorized assistance accounts.

When a final determination has been made that unauthorized assistance has been granted, the Finance Office will be notified of necessary account adjustments as outlined in this section, depending upon whether the case of unauthorized assistance was identified by OIG in an audit report or by another means. The Finance Office will serve the accounts as prescribed in this section.

(a) *Audit cases.* Only the cases of unauthorized assistance identified by an OIG audit will be reported to the Finance Office by submission of Form FmHA 1951–12, completed in accordance with the FMI. The Finance Office will flag the account for monitoring and reporting as required. Any payment reversed will be reapplied as of the original date of credit. "Loan" refers to an account with an active borrower unless specified as "inactive."

(1) *Unauthorized loan.* When the loan is unauthorized because the recipient was not eligible or because the loan was made for unauthorized purposes, the Finance Office will be advised as follows:

(i) *Repayment in full.* If the recipient has arranged to repay the unauthorized loan, the payment will be remitted with Form FmHA 451–2, in accordance with the FMI. Form FmHA 1951–12 will reflect the amount and the Schedule Number.

(ii) *Accelerated repayment agreement.* If the recipient has entered into an "Accelerated Repayment Agreement," Form FmHA 1965–11 will be prepared and distributed according to the FMI,

attaching the original form to Form FmHA 1951–12.

(iii) *Continuation with loan under existing or modified terms.* When it is determined that all the conditions outlined in § 1951.608(b) of this Subpart are met and continuation with the loan under the existing or modified terms is authorized, the servicing official will submit Form FmHA 1951–12 to the Finance Office to reflect this.

(2) *Unauthorized subsidy benefits received through use of incorrect interest rate.* When the interest rate on a loan is changed, Form FmHA 1951–12 will be submitted to notify the Finance Office of the correct interest rate to be charged from the loan closing date. Payments made will be reversed and reapplied at the corrected interest rate, after which the unauthorized subsidy benefits will be reported to OIG as resolved. The loan will then be treated as an authorized loan. When a loan is converted to above-moderate RH or ORE, the loan must be identified and serviced by the servicing official accordingly.

(3) *Unauthorized interest credits.* Unauthorized interest credits will be recovered through submission of Form FmHA 1944–15, "Interest Credit Agreement Cancellation," or Form FmHA 1944–6, "Interest Credit Agreement," to cancel or adjust the amount of interest credits for each period of time unauthorized interest credits were received. Form FmHA 1951–12 will be prepared in accordance with the FMI and Forms FmHA 1944–15 or 1944–6, as applicable, will be attached. Payments made during the period unauthorized interest credits were received will be reversed and reapplied according to the documents submitted, after which the unauthorized interest credits will be reported to OIG as resolved. A delinquency which is created will be serviced according to Subpart G of Part 1951 of this Chapter.

(4) *Liquidation pending.* When liquidation is initiated under the provisions of this Subpart, Form FmHA 1951–12 will be submitted to advise the Finance Office of the unauthorized assistance account to be established. This account will be flagged "FAP" (Foreclosure Action Pending) or "CAP" (Court Action Pending), as applicable.

(5) *Liquidation not initiated.* Cases in which liquidation has not been initiated because of the provisions of § 1951.608(e)(1)(i) (A) or (B) of this Subpart will be adjusted according to § 1951.612 and this section, and the adjustments will be reflected on Form FmHA 1951–12. In this instance *only*, account adjustments will be made even though the recipient does not sign Form FmHA 1951–12 and any related documents.

(6) *Unauthorized grant assistance.* The State Office will submit a composite report for the State to the Finance Office by the 15th of March, June, September, and December each year, reflecting the information outlined in § 1951.612(b) of this Subpart.

(7) *Establishment of account for inactive borrower or judgment account.*

(i) When a recipient agrees to repay unauthorized assistance and executes documents to evidence the obligation, Form FmHA 1951–12 will reflect this, and the Finance Office will establish the account according to the terms shown on Form FmHA 1951–12.

(ii) When a judgment is obtained against a recipient, Form FmHA 1955–20, "Notice of Judgment," will be forwarded to the Finance Office for establishment of a judgment account.

(8) *Reporting.* At prescribed intervals, the Finance Office will report to the OIG on the status of cases involving unauthorized assistance which were idenitified by OIG in audit reports. For reporting purposes, the following applies:

(i) For an unauthorized loan account established as provided in paragraphs (a) (1), (2), or (7)(i) of this section, reporting will be as follows:

(A) When unauthorized assistance is paid in full, this will be reported on the next scheduled report only.

(B) When unauthorized assistance is to be repaid under an accelerated repayment agreement, the collections and status will be included on each scheduled report until the account is paid in full.

(C) When continuation with the loan on existing or modified terms is approved, this will be reported on the next scheduled report, and no further reporting is required.

(ii) For unauthorized subsidy cases as provided in paragraphs (a) (2) or (3) of this section, after the unauthorized amount has been repaid or payments have been reversed and reapplied at the correct interest rate, the unauthorized subsidy will be reported as resolved on the next scheduled report. No further reporting is required.

(iii) When liquidation action is pending as provided in paragraph (a)(4) of this section, the status will be included on each scheduled report until the liquidation is completed or the loan is otherwise paid in full.

(iv) When liquidation is not initiated as provided in paragraph (a)(5) of this section, this will be reported on the next scheduled report (along with collections, if any). No further reporting is required.

(v) When unauthorized grant assistance is scheduled to be repaid as provided in paragraph (a)(6) of this section, collections and status as reported by the State Office will be included in the report to OIG until the amount is paid in full.

(b) *Nonaudit cases.* Basically, servicing is the same for audit and nonaudit cases; however, when receipt of unauthorized assistance is identified by a means other than an OIG audit report, the Finance Office will be notified only if adjustments to an account or reinstatement of an inactive account are necessary. Once adjustments are made as provided in this paragraph, the loan(s) will be serviced in the same manner as an authorized loan(s). Any payment reversed will be reapplied as of the original date of credit. After payments are reversed and reapplied, the servicing official will receive Form FmHA 451–26, "Transaction Record," from the Finance Office reflecting the account status.

(1) Account adjustments will be handled as follows:

(i) When a change in interest rate retroactive to the date of loan closing on a loan is necessary, Form FmHA 1951–13 will be completed according to the FMI and submitted to the Finance Office. Payments will be reversed and reapplied accordingly.

(ii) For unauthorized interest credits on SFH loans, Form FmHA 1944–15 or Form FmHA 1944–6, as applicable, will be submitted to the Finance Office. Payments will be reversed and reapplied accordingly.

(iii) For accounts to be rescheduled or reamortized, Forms FmHA 1965–11, or 452–2, "Reamortization and/or Deferral Agreement," as applicable, will be prepared and submitted in accordance with the respective FMI.

(iv) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, the servicing official will notify the Finance Office by memorandum, attaching a copy of the promissory note. The Finance Office will establish the account according to the terms of the promissory note.

(v) When a judgement is obtained against a recipient, Form FmHA 455–20, "Notice of Judgment," will be forwarded to the Finance Office for establishment of a judgment account.

(vi) When a loan is paid in full, the remittance will be handled in the same manner as any other final payment.

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragraph (b)(1) of this section will be

serviced according to Subpart G of Part 1951 of this Chapter.

§ 1951.619 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the Assistant Administrator, Housing. Requests will be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.620–1951.650 [Reserved]

Subpart N—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing

Sec.

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Subpart N—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing

§ 1951.651 Purpose.

This Subpart prescribes the policies and procedures for servicing Multiple Family Housing (MFH) loans and/or grants made by Farmers Home Administration (FmHA) when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. As used in this Subpart, MFH loans and grants are Section 515 Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) loans and Sections 514 and 516 Labor Housing (LH) loans and grants.

§ 1951.652 Definitions.

As used in this Subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability or foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Financial assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has(have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* "Recipient" refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, or a grant which was unauthorized.

(h) *Unauthorized assistance.* Any loan, interest subsidy, or grant, or any portion thereof, received by a borrower or grantee for which there was not authorization, for which the recipient was not eligible, or for which there were not funds authorized or appropriated for the assistance at the time it was approved. Interest subsidy includes interest credits, rental assistance, and subsidy benefits received because a loan was made at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

§ 1951.653 Policy.

When unauthorized assistance has been received, an effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount. The prepayment restrictions imposed by Subpart E of Part 1944 of this Chapter do not apply to cases of unauthorized assistance.

§ 1951.654 Categories of unauthorized assistance.

Unauthorized assistance includes, but in not limited to, these categories:

(a) The recipient was not eligible for the assistance.

(b) The property, as approved, does not qualify for the program. For example: An RRH or LH project which clearly is above modest in size, design and/or cost or was not located in an area designated as rural when the initial loan was made.

(c) The loan or grant was made for unauthorized purposes. For example: Purchase of an excessive amount of land.

(d) The recipient was granted unauthorized subsidy in the form of:

(1) Interest credits (IC) on an RRH loan;

(2) Rental Assistance (RA) in connection with an RRH or LH loan; or

(3) A subsidy benefit received through use of an incorrect interest rate.

§ 1951.655 [Reserved]

§ 1951.656 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA, (OIG); through reviews made by FmHA personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA assistance. If FmHA has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case will be referred to the Regional Office of the General Counsel (OGC) of the National Office, as appropriate, for review and advice. In every case where it is known or believed by FmHA that the assistance was based on false information, investigation by the OIG will be requested as provided for in FmHA Instruction 2012–B (available in any FmHA office). If OIG conducts an investigation, the actions outlined in § 1951.657 of this Subpart will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the recipient;

(b) Submission of false information by the recipient;

(c) Submission of inaccurate for false information by another party on the recipient's behalf such as a loan packager, developer, real estate broker, or professional cousultants such an engineers, architects, management agents and attorneys, when the recipient did not know the other party had submitted inaccurate for false information;

(d) Error by FmHA personnel, either in making computations or failure to follow published regulations or other agency issuances; or

(e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

§ 1951.657 Notification to recipient.

(a) Collection efforts will be initiated by the District Director by a letter substantially similar to Exhibit A of this Subpart (available in any FmHA office), and mailed by the servicing official to the recipient by "Certified Mail, Return Receipt Requested," with a copy to the State Director and, for a case identified in an OIG audit report, a copy to the OIC office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all recipients who received unauthorized assistance, regardless of amount. The letter will:

(1) Specify in detail the reason(s) the assistance was determined to be unauthorized;

(2) State the amount of unauthorized assistance to be repaid according to Exhibit C of this Subpart (available in an FmHA office); and

(3) Establish an appointment for the recipient to discuss with the District Director the basis for FmHA's claim; and give the recipient an opportunity to provide facts, figures, written records or other information which might alter FmHA's determination that the assistance received was unauthorized.

(b) If the recipient meets with the District Director, the District Director will outline to the recipient why the assistance was determined to be unauthorized. The recipient will be given an opportunity to provide information to refute FmHA's findings. When requested by the recipient, the District Director may grant additional time for the recipient to assemble documentation. When an extension is granted, the District Director will specify a definite number of days to be allowed and establish the followup necessary to assure that servicing of the case continues without undue delay.

§ 1951.658 Decision on servicing actions.

When the District Director is the same individual who approved the unauthorized assistance, the State Director must review the case before further actions are taken by the District Director.

(a) If the recipient agrees with FmHA's determination or will pay in a lump sum, the District Director may allow a reasonable period of time (usually not to exceed 90 days) for the recipient to arrange for repayment. The amount due will be the amount stated in the Exhibit A (available in any FmHA office) letter. The District Director will remit collections to the Finance Office according to the Forms Manual Insert for Form FmHA 1944–9, "Multiple Housing Certification and Payment Transmittal" as follows:

(1) In the case of the loan, for application to the borrower's account as an extra payment.

(2) In the case of a grant, as a "Miscelllaneous Collection for Application to the General Fund."

(3) In the case of a loan or grant which was identified in an OIG audit, the District Director will report the repayment as outlined in § 1951.668 (a)(1)(i), (a)(3), or (a)(6) of this Subpart, as applicable.

(4) In the case of RA, the repayment will be handled as outlined in § 1951.661(a)(3) and Exhibit E to FmHA Instruction 1930–C.

(b) If the recipient agrees with FmHA's determination or is willing to pay the amount in question but cannot repay the unauthorized assistance within a reasonable period of time, continuation is authorized and servicing actions outlined in § 1951.668 of this Subpart will be taken provided all of the following conditions are met:

(1) The recipient was not at fault;

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(3) Failure to collect the unauthorized assistance in full will not adversely affect FmHA's financial interests.

(c) If the recipient does not agree with FmHA's determination, or if the recipient fails to respond to the initial letter prescribed in § 1951.657 within 30 days, the District Director will notify the recipient by letter substantially similar to Exhibit B of this Subpart (available in any FmHA office) (sent by Certified Mail, Return Receipt Requested), with a copy to the State Director, and for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will include:

(1) The amount of assistance finally determined by FmHA to be unauthorized;

(2) A statement of further actions to be taken by FmHA as outlined in paragraph (e)(1) or (e)(2) of this section; and

(3) The appeal rights as prescribed in Exhibit B of this Subpart (available in any FmHA office).

(d) Appeals resulting from the letter prescribed in paragraph (c) of this section will be handled according to Subpart B of Part 1900 of this Chapter. All appeal provisions will be concluded before proceeding with further actions. If the recipient does not prevail on appeal, or when an appeal is not made during the time allowed, the District Director will proceed with the actions outlined in paragraph (e) of this section, as applicable. If during the course of appeal the appellant decides to agree with FmHA's findings or is willing to repay the unauthorized assistance, the District Director will proceed with the actions outlined in paragraphs (a) or (b) of this section.

(e) If the recipient is unwilling or unable to arrange for repayment as provided in paragraph (a) of this section or continuation is not feasible as provided in paragraph (b) of this section, one of the following actions, as appropriate, will be taken:

(1) *Active borrower with a secured loan.*

(i) The District Director will attempt to have the recipient liquidate voluntarily. If the recipient agrees to liquidate voluntarily, this will be documented by an entry in the running record of the case file. Where real property is involved, a letter will be prepared by the District Director and signed by the recipient agreeing to voluntary liquidation. For organizations, a resolution of the governing body may be necessary in addition to the running record notation. If the recipient does not agree to voluntary liquidation, or agrees but it cannot be accomplished within a reasonable period of time, (usually not more than 90 days), forced liquidation action will be initiated in accordance with Subpart A of 1955 of this chapter unless:

(A) The amount of unauthorized assistance outstanding is less than $1,000; or

(B) It can be clearly documented that it would not be in the best financial interest of the Government to force liquidation. If the District Director wishses to make an exception to forced liquidation under this subparagraph (i)(B), a request for an exception under § 1951.669 of this Subpart will be made.

(ii) When all of the conditions of paragraphs (a) or (b) of this section are met, but the recipient does not repay or refuses to execute documents to effect necessary account adjustments according to the provisions of § 1951.661 of this Subpart, liquidation action will be initiated as provided in paragraph (e)(1)(i) of this section.

(iii) When forced liquidation would be initiated except that the loan is being handled under paragraph (e)(1)(i) (A) or (B) of this section, account adjustments will be made by FmHA without the signature of the recipient according to § 1951.668(a)(5) of this Subpart. In these cases, the recipient will be notified by letter of the actions taken with a copy of Form FmHA 1951–12 "Correction of Loan Account," if applicable.

(2) *Grantee, inactive borrower, or active borrower with unsecured loan (such as collection-only, or unsatisfied balance after liquidation).* The District Director will document the facts in the case and submit it to the State Director who will request the advice of OGC on pursuing legal action to effect collection. The State Director should tell OGC what assets, if any, are available from which to collect. The case file, recommendation of State Director and OGC comments will be forwarded to the National Office for review and authorization to implement recommended servicing actions.

§§ 1951.659–1951.660 [Reserved]

§ 1951.661 Servicing options in lieu of liquidation or legal action to collect.

When all of the conditions outlined in § 1951.658(b) of this Subpart are met, an unauthorized loan or grant will be serviced according to this section and § 1951.668 of this Subpart, provided the recipient has the legal and financial capabilities.

(a) *Active borrower/grantee.*—(1) *Unauthorized loan.*

(i) *Correction of problem.* If the problem causing the assistance to be unauthorized can be corrected, corrective action will be required. For example, where a subsidy was in excess of the unauthorized amount, the recipient will refund the excess amount; the recipient will be required to sell the excess land and the proceeds will be applied to the account as an extra payment.

(ii) *Continuation on existing terms.* When there is no specific problem which can be corrected, continuation on the existing terms is authorized.

(2) *Unauthorized subsidy benefits received through use of incorrect interest rate.* When the recipient was eligible for the loan but should properly have been charged a higher interest rate than that shown in the debt instrument, resulting in the receipt of unauthorized subsidy benefits, the interest rate must be corrected to that which was in effect when the loan was approved. All payments made will be reversed and reapplied at the correct interest rate. A delinquency which is created will be serviced according to Subpart B of Part 1965 of this Chapter. After reapplication of payments, the loan will be serviced as an authorized loan. Change in interest rate will be accomplished according to §1951.668 of this Subpart. When the recipient is a public body with loans secured by bonds on which interest rate cannot legally be changed or payments reversed or reapplied, continuation on existing terms is authorized.

(3) *Unauthorized interest credits or rental assistance.* In cases involving RA and/or IC, the subsidy benefits should be terminated as provided in the Interest Credit and Rental Assistance Agreement. Unauthorized RA will be serviced as a delinquent account according to paragraph X B of Exhibit E of Subpart C of Part 1930 of this Chapter.

(i) *Tenant's failure to properly report changes in income or size of the household to the borrower.* In cases where a tenant has received RA and/or IC benefits to which he/she was not entitled because of the tenant's failure to properly report income or changes in household size, the borrower-landlord will provide the tenant with a notice of intent to recoup improperly advanced rental subsidy benefits. Such a notice must inform the tenant of the amount improperly advanced and the lump sum or monthly amount that will be added to the tenant's rent to recoup the improper rental subsidy. The borrower will inform the District Director of the unauthorized benefits and of the agreement made by the tenant to repay. Money collected will be remitted according to the FMI for Form FmHA 1944–9. If the borrower has rental assistance, that portion attributable to RA will be credited to the borrower's RA account. In the event that the tenant does not repay through active collection efforts including legal remedy, the borrower will report the facts to the District Director. The District Director will report to the State Director who will obtain the advice of OGC on further actions.

(ii) *Tenant knowingly misrepresented income or number of occupants to the borrower.* If it appears the tenant has knowingly misrepresented income to the borrower, the District Director will look into the case to determine the facts. If the District Director determines that income or number of occupants was misrepresented, he/she will direct the borrower—landlord to demand and to attempt to recoup improperly received rental subsidy from the tenant. Money collected will be remitted to the Finance Office according to the FMI for Form FmHA 1944–9. If the tenant fails to make restitution, the District Director will refer the case to the State Director who will request the advice of OGC on further actions.

(iii) *Unauthorized RA and/or IC paid due to borrower's error.* Whether unauthorized RA or IC was received by the borrower due to miscalculation or oversight by the borrower or the borrower's management agent, the borrower is required to make restitution to FmHA. This restitution will not be charged to any tenant or to the project as any part of the budget or operating expense. The restitution will be handled as a refund according to the FMI for Form FmHA 1944–9. In the case of a nonprofit or public body borrower, when funds from nonproject sources are not available, the State Director may make an exception and allow project income not required for approved operating budget items to cover the cost of restitution.

(iv) *Rental assistance assigned to wrong household.* When the tenant has correctly reported income and household size, but RA was assigned by the borrower to the household in error, the tenant's RA benefit will be cancelled and reassigned.

(A) *Notification and cancellation.* Before the borrower notifies the tenant, the borrower or management agent will review the case with the District Director. If the District Director verifies that an error was made based on information available at the time the unit was assigned, the tenant will be given 30 days written notice by the borrower or management agent that the unit was assigned in error and that the RA benefit will be cancelled effective on the next monthly rental payment due after the end of the 30-day notice period. The written notice will provide that:

(*1*) The tenant has the right to cancel the lease based on the loss of subsidy benefit to the tenant.

(*2*) The RA granted in error will not be recaptured.

(*3*) The tenant may meet with management to discuss the cancellation and the facts on which the decision was based. The borrower must give the tenant appeal rights under Subpart L of Part 1944 of this Chapter.

(B) *Reassignment of RA.* Rental assistance will be reassigned in accordance with Paragraph XII of Exhibit E to Subpart C of 1930 of this chapter.

(v) *Rental assistance in excess of contract.* When rental assistance is advanced in excess of the RA contract limit, the District Director will send a report of the facts and a recommendation of proposed action through the State Director to the Assistant Administrator, Housing. The Assistant Administrator will determine the disposition of the case and notify the State Director, who will instruct the District Director of the required action.

(4) *Unauthorized grant assistance.*

(i) When the recipient will repay unauthorized grant assistance over a period of time, interest will be charged at the rate specified in the grant agreement for default from the date received until paid. Repayment will be scheduled over a period consistent with the recipient's repayment ability but not to exceed 10 years. The District Director must maintain collection records as the Finance Office cannot set upon an account for repayment of a grant. The District Director will attempt to collect the monies due, and all collections will be remitted with Form FmHA 451–2, "Schedule of Remittances," as a "Miscellaneous Collection for application to the General Fund." For cases identified in OIG audits only, the District Director will report quarterly to the State Office according to § 1951.668(a)(6) of this Subpart.

(ii) If it is determined the recipient cannot repay unauthorized grant assistance, the assistance may be left outstanding under the terms of the grant agreement. In the case of committed funds not yet disbursed, no further disbursements will be made without prior consent of the Administrator.

(5) *Cases where recipient has both authorized and unauthorized loans outstanding.* When a recipient has both authorized and unauthorized loans outstanding, installments will be scheduled to be paid concurrently on all loans. Each loan will be serviced according to the loan servicing regulations in effect for an authorized loan of its type.

(b) *Inactive borrower.* When a borrower no longer has an outstanding account in the records of the Finance Office, the following actions will be taken:

(1) Have the recipient execute a promissory note in the amount of the assistance determined to be unauthorized in the Exhibit A (available in any FmHA office) letter according to § 1951.657 of this Subpart. This note will bear interest at the rate which was in effect for the type loan associated with the unauthorized assistance when it was approved. The term will not exceed 10 years.

(2) Take the best mortgage obtainable to secure the note.

§§ 1951.662–1951.667 [Reserved]

§ 1951.668 Servicing unauthorized assistance accounts.

When a final determination has been made that unauthorized assistance has been granted, the Finance Office will be notified of necessary account adjustments as outlined in this section, depending upon whether the case of unauthorized assistance was identified by OIG in an audit report or by another means. The Finance Office will service the accounts as prescribed in this section.

(a) *Audit cases.* Only the cases of unauthorized assistance identified by OIG will be reported to the Finance Office by submission of Form FmHA 1951–12 completed in accordance with the Forms Manual Insert (FMI). The Finance Office will flag the account for monitoring and reporting as required. Each payment reversed will be reapplied as of the original date of credit. "Loan" as used in this section refers to an account with an active borrower unless specified as "inactive."

(1) *Unauthorized loan.* When the loan is unauthorized because the recipient was not eligible or because the loan was approved for unauthorized purposes, the Finance Office will be advised as follows:

(i) *Repayment in full.* If the recipient has arranged to repay the unauthorized loan, the payment will be remitted with Form FmHA 1944–9, in accordance with the FMI. Form FmHA 1951–12 will reflect the amount and the schedule Number from Form FmHA 1944–9.

(ii) *Continuation with loan on existing terms.* When continuation with the loan on the existing terms is approved according to § 1951.661(a)(1)(ii) of this Subpart, the District Director will submit Form FmHA 1951–12 to the Finance Office to reflect this.

(2) *Unauthorized subsidy benefits received through use of incorrect interest rate.* When the interest rate on an entire loan is changed, From FmHA 1951–12 will be submitted to notify the Finance Office of the correct interest rate to be charged from the loan closing date. Payments made will be reversed and reapplied at the corrected interest rate, after which the unauthorized subsidy benefits will be reported to OIG as resolved. The loan will threafter be treated as an authorized loan.

(3) *Unauthorized interest credits and/or rental assistance.* Unauthorized rental assistance and/or interest credits will be recovered according to the provisions of § 1951.661 of this Subpart. The District Director will report to the State Office, by March 1, June 1, September 1 and December 1 each year, the repayment of unauthorized rental assistance and/or interest credits by account name, case number, account code, audit report number, finding number, date of claim, amount of claim, amount collected during period, and balance owed at end of reporting period. The State Office will forward a consolidated report to the Finance Office no later than March 14, June 15, September 15, and December 15 of each year for inclusion in the OIG report.

(4) *Liquidation pending.* When liquidation is initiated under the provisions of this Subpart, Form FmHA 1951–12 will be submitted to advise the Finance Office of the unauthorized assistance account to be established. This account will be flagged "FAP" (Foreclosure Action Pending) or "CAP" (Court Action Pending), as applicable. The account status will also be amended in the MFH Information Tracking and Retrieval System (MISTR) according to Subpart G of Part 2033 (available in any FmHA State or District Office).

(5) *Liquidation not initiated.* Cases in which liquidation has not been initiated because of the provisions of § 1951.658(e)(1)(i) (A) or (B) of this Subpart, will be adjusted according to § 1951.661 and this section, and the adjustments will be reflected on Form FmHA 1951–12. In this instance only, account adjustments will be made even though the recipient does not sign Forms FmHA 1951–12 and any related documents.

(6) *Unauthorized grant assistance.* When grant funds are to be repaid as provided in § 1951.661(a)(4) of this Subpart, the District Director will report to the State Office by March 1, June 1, September 1, and December 1 of each year, the amount of collections by account name, case number, account code, audit report number, finding number, date of claim, amount of claim, amount collected during period, and the balance owed at end of reporting period on the unauthorized grant assistance. The State Office will submit a composite report to the Finance Office by the 15th of March, June, September, and December of each year.

(7) *Establishment of account for inactive borrower.* When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, Form FmHA 1951–12 will reflect this, and the Finance Office will establish the account according to the terms indicated on Form FmHA 1951–12.

(8) *Reporting.* At prescribed intervals, the Finance Office will report to the OIG on the status of cases involving unauthorized assistance which were identified by OIG in audit reports. For reporting purposes, the following applies:

(i) For an unauthorized loan account as provided in paragraph (a) (1) or (4) of this section, reporting will be as follows:

(A) When unauthorized assistance is paid in full, this will be reported on the next scheduled report only.

(B) When continuation with the loan on existing terms is approved, this will be reported on the next scheduled report, and no further reporting is required.

(ii) For unauthorized subsidy cases as provided in paragraphs (a) (2) or (3) of this section, after the unauthorized amount has been repaid or payments have been reversed and reapplied at the correct interest rate, the unauthorized subsidy will be reported as resolved on the next scheduled report. No further reporting is required.

(iii) When an account is established with liquidation action pending as provided in paragraph (a)(4) of this section, the status will be included on each scheduled report until the liquidation is completed or the account is otherwise paid in full.

(iv) When liquidation is not initiated as provided in paragraph (a)(5) of this section, this will be reported on the next scheduled report (along with collections, if any). No further reporting is required.

(v) When unauthorized grant assistance is scheduled to be repaid, the collections and status reported by the State Office to the Finance Office by memorandum according to paragraph (a)(6) of this section will be included in the OIG Report.

(b) *Nonaudit cases.* Basically, servicing is the same for audit and nonaudit cases; however, when receipt of unauthorized assistance is identified by a means other than an OIG audit report, the Finance Office will be notified only if adjustments to an active account or reinstatement of an inactive account are necessary, or grant funds are repaid. Once adjustments are made as provided in this paragraph, the loan(s) will be treated as an authorized loan(s). Any payment reversed will be reapplied as of the original date of credit. After payments are reversed and reapplied, the District Director will receive Form FmHA 451–26, "Transaction Record," from the Finance Office reflecting the account status.

(1) Account adjustments will be handled as follows:

(i) When a change in interest rate retroactive to the date of loan closing is necessary, Form FmHA 1951–13, "Change in Interest Rate," will be completed according to the FMI and submitted to the Finance Office. Payments will be reversed and reapplied accordingly.

(ii) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, the District Director will notify the Finance Office by memorandum, attaching a copy of the promissory note. The Finance Office will establish or reinstate the account according to the terms of the promissory note.

(iii) If a loan is paid in full, the remittance will be handled in the same manner as any other final payment.

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragarph (b)(1)(i) of this section will be serviced according to Subpart B of Part 1965 of this Chapter.

§ 1951.669 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the Assistant Administrator, Housing. Requests will be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.670–1951.700 [Reserved]

Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs

Sec.

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Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs

§ 1951.701 Purpose.

This Subpart prescribes the policies and procedures for servicing Community and Business Programs loans and/or grants made by Farmers Home Administration (FmHA) when it is determined that the borrower or granteee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. It does not apply to guaranteed loans.

§ 1951.702 Definitions.

As used in this Subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability or foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Financial assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on corrrect information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has(have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* "Recipient" refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, a grant, or a portion of a grant which was unauthorized.

(h) *Servicing official.* For Community Programs, the servicing official is the District Director or an Assistant District Director so designated. For Business Programs, the servicing official is the State Director or designee.

(i) *Unauthorized assistance.* Any loan, interest subsidy, grant, or portion thereof received by a borrower or grantee for which there was no

authorization, for which the recipient was not eligible, or for which there were no funds authorized or appropriated for the assistance at the time it was approved. Interest subsidy includes subsidy benefits received because a loan was closed at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

§ 1951.703 Policy.

When unauthorized assistance has been received, an effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount.

§§ 1951.704–1951.705 [Reserved]

§ 1951.706 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA (OIG); through reviews made by FmHA personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA assistance. If the servicing official has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case file including the advice of the Regional Office of the General Counsel (OGC) will be referred to the National Office for review and comment. In every case where it is known or believed by FmHA that the assistance was based on false information, investigation by the OIG will be requested as provided for in FmHA Instruction 2012–B (available in any FmHA office). If OIG conducts an investigation, the actions outlined in § 1951.707 of this Subpart will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the recipient;

(b) Submission of false information by the recipient;

(c) Submission of inaccurate or false information by another authorized party acting on the recipient's behalf including, professional consultants such as engineers, architects, and attorneys, when the recipient did not know the other party had submitted inaccurate or false information;

(d) Error by FmHA personnel, either in making computations or failure to follow published regulations or other agency issuances; or

(e) Error in preparation of a debt instrument which caused a loan to be closed at an interest rate lower than the correct rate in effect when the loan was approved.

§ 1951.707 Notification to recipient.

(a) Collection efforts will be initiated by the servicing official by a letter substantially similar to Exhibit A of this Subpart (available in any FmHA office), and mailed to the recipient by "Certified Mail, Return Receipt Requested," with a copy to the State Director and, for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will be sent to all recipients who received unathorized assistance, regardless of amount. The letter will:

(1) Specify in detail the reason(s) the assistance was determined to be unauthorized;

(2) State the amount of unauthorized assistance, including any accrued interest to be repaid; and

(3) Establishes an appointment for the recipient to discuss with the servicing official the basis for FmHA's claim; and give the recipient an opportunity to provide facts, figures, written records or other information which might alter FmHA's determination that the assistance received was unauthorized.

(b) If the recipient meets with the servicing official, the servicing official will outline to the recipient why the assistance was determined to be unauthorized. The recipient will be given an opportunity to provide information to refute FmHA's findings. When requested by the recipient, the servicing official may grant additional time for the recipient to assemble documentation. When an extension is granted, the servicing official will specify a definite number of days to be allowed and establish the follow up necessary to assure that servicing of the case continues without undue delay.

§ 1951.708 Decision on servicing actions.

When the servicing official is the same individual who approved the unauthorized assistance, the next-higher supervisory official must review the case before further actions are taken by the servicing official.

(a) If the recipient agrees with FmHA's determination or will pay the amount in question, the servicing official may allow a reasonable period of time (usually not to exceed 90 days) for the recipient to arrange for repayment. The amount due will be determined according to § 1951.711(a) of this Subpart. The servicing official will remit collections to the Finance Office according to the Forms Manual Insert (FMI) for Form FmHA 451–2, "Schedule of Remittances," as follows:

(1) In the case of a loan, for application to the borrower's account as an extra payment.

(2) In the case of a grant, as a "Miscellaneous Collection for Application to the General Fund."

(3) In the case of a loan or grant which was identified n an OIG audit, the servicing official will report the repayment as outlined in § 1951.711(b)(2) or 1951.715 of this Subpart as applicable.

(b) If the recipient agrees with FmHA's determination or is willng to pay the amount in question but cannot repay the unauthorized assistance within a reasonable period of time, continuation is authorized and servicing actions outlined in § 1951.711 of this Subpart will be taken provided all of the following conditions are met:

(1) The recipient was not at fault;

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance; and

(3) Failure to collect the unauthorized assistance in full will not adversely affect FmHA's financial interests.

(c) If the recipient does not agree with FmHA's determination, or if the recipient fails to respond to the initial letter prescribed in § 1951.707 within 30 days, the servicing official will notify the recipient by letter substantially similar to Exhibit B of this Subpart (available in any FmHA office) (sent by Certified Mail, Return Receipt Requested), with a copy to the State Director, and for a case identified in an OIG audit report, a copy to the OIG office which conducted the audit and the Planning and Analysis Staff of the National Office. This letter will include:

(1) The amount of assistance finally determined by FmHA to be unauthorized including any accrual interest.

(2) A statement of further actions to be taken by FmHA as outlined in paragraph (e)(1) or (e)(2) of this section; and

(3) The appeal rights as prescribed in Exhibit B of this Subpart (available in any FmHA office).

(d) Appeals resulting from the letter prescribed in paragraph (c) of this section will be handled according to Subpart B of Part 1900 of this Chapter. All appeal provisions will be concluded before proceeding with further actions. If the recipient does not prevail on

appeal, or when an appeal is not made during the time allowed, the servicing official will document the facts in the case file and submit to State Director, if the servicing official is other than State Director, who will proceed with the actions outlined in paragraph (e) of this section, as applicable. If during the course of appeal the appellant decides to agree with FmHAs findings or is willing to repay the unauthorized assistance, the servicing official will proceed with the actions outlined in paragraph (a), (b), or (e) of this section.

(e) When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the recipient refuses to execute the documents necessary to establish an obligation to repay the unauthorized assistance as provided in § 1951.711 of this Subpart, one of the following actions will be taken:

(1) *Active borrower with a secured loan.*

(i) The servicing official will attempt to have the recipient liquidate voluntarily. If the recipient agrees to liquidate voluntarily, this will be documented in the case file. Where real property is involved, a letter will be prepared by the servicing official and signed by the recipient agreeing to voluntary liquidation. A resolution of the governing body may be required. If the recipient does not agree to voluntary liquidation, or agrees but it cannot be accomplished within a reasonably period of time (usually not more than 90 days), forced liquidation action will be initiated in accordance with applicable provisions of Subpart A of Part 1955 of this Chapter unless:

(A) The principal amount of unauthorized assistance outstanding is less than $1,000; or

(B) It can be clearly documented that it would not be in the best financial interest of the Government to force liquidation. If the servicing official wishes to make an exception to forced liquidation under this subparagraph (i)(B), a request for an exception under § 1951.716 of this Subpart will be made.

(ii) When all of the conditions of paragraphs (a) or (b) of this section are met, but the recipient does not repay or refuses to execute documents to effect necessary account adjustments according to the provisions of §1951.711 of this Subpart, liquidation action will be initiated as provided in paragraph (e)(l)(i) of this section.

(iii) When forced liquidation would be initiated except that the loan is being handled under paragraph (e)(l)(i) (A) or (B) of this section, continuation with the loan on existing terms will be provided. In these cases, the recipient will be notified by letter of the actions taken.

(2) *Grantee, inactive borrower, or active borrower with unsecured loan (such as collection-only, or unsatisfied balance after liquidation).* The servicing official will document the facts in the case file and submit it to the State Director, if the servicing official is other than the State Director, who will request the advice of the OGC on pursuing legal action to effect collection. The case file, recommendation of State Director and OGC comments will be forwarded to the National Office for review and authorization to implement recommended servicing actions. The State Director should tell OGC what assets, if any, are available from which to collect.

§§ 1951.709–1951.710 [Reserved]

§ 1951.711 Servicing options in lieu of liquidation or legal action to collect.

When the conditions outlined in § 1951.708(b) of this Subpart are met, the servicing options outlined in this section will be considered. Accounts will be serviced according to this section and § 1951.715 of this Subpart.

(a) *Determination of unauthorized loan and/or grant assistance amount.*— (1) *Unauthorized loan amount.* The principal loan amount that was unauthorized will be determined. The unauthorized amount will be the unauthorized principal plus any accrued interest on the unauthorized principal at the note interest rate until the date paid in acordance with § 1915.708(a) of this Subpart, or until the date other satisfactory financial arrangements are made in accordance with paragraphs (b)(1) or (c) of this section.

(2) *Unauthorized grant amount.* The unauthorized grant actually expended will be determined. The unauthorized amount will be the unauthorized grant with accrued interest at the interest rate stipulated in the respective executed grant agreement for default cases until the date paid in accordance with § 1915.708(a) of this Subpart, or until the date other satisfactory financial arrangements are made in accordance with paragraphs (b)(2) or (c) of this section.

(b) *Continuation on modified terms.* When the recipient has the legal and financial capabilities, the case will be serviced according to one of the following, as appropriate. In each instance, the servicing official will advise the Finance Office by memorandum of the actions necessary to effect the account adjustment.

(1) *Unauthorized loan.* A loan for the unauthorized amount determined according to paragraph (a)(1) of this section will be established at the interest rate specified in the outstanding debt instrument or at the present market interest rate, whichever is greater, for the respective community and business program area. The loan will be amortized for a period not to exceed fifteen (15) years, the remaining term of the original loan, or the remaining useful life of the facility whichever is shorter.

(2) *Unauthorized grant.* The unauthorized grant amount determined according to paragraph (a)(2) of this section will be converted to a loan at the market interest rate for the respective Community and Business Programs area in effect on the date the financial assistance was provided, and will be amortized for a period not to exceed fifteen (15) years. The recipient will be required to execute a debt instrument to evidence this obligation, and the best security position practicable will be taken to secure the repayment. When the recipient is to repay grant assistance, the servicing official must maintain records on the "account" as the Finance Office cannot set up an account for repayment of a grant. The servicing official will attempt to collect the monies due and all collections will be remitted with Form FmHA 451–2 to the Finance Office as "Miscellaneous Collections for application to the General Fund." For cases identified in OIG audits only, the servicing official will report by the 1st of March, June, September, and December of each year the following information on cases of this type to the State Director: Recipient's name, fund code, audit report number, audit finding number, date of claim, amount of claim, amount collected during the reporting period, and the balance owed on the unauthorized grant assistance.

(3) *Unauthorized subsidy benefits received.* When the recipient was eligible for the loan but should have been charged a higher interest rate than that in the debt instrument, which resulted in the receipt of unauthorized subsidy benefits, the case will be handled as outlined in this paragraph when legally possible. The interest rate will be adjusted to the appropriate interest rate which was in effect on the date of loan approval or when the recipient was notified according to § 1951.707 of this Subpart, whichever is greater. (See Exhibit C of this Subpart for interest rates, available in any FmHA office.) Appropriate adjustments will be made to recipient's account to reflect the revised installments. No reversal and reapplication of previous payments will be required.

(c) *Continuation of existing terms.* When the recipient does not have the legal and/or financial capabilities for the options outlined in paragraph (b) (1), (2), or (3), as appropriate, to be exercised, the recipient may be allowed to continue to meet the loan/grant obligations outlined in the existing loan/grant instruments. Unless the unauthorized assistance was identified in an OIG audit, no Finance Office notification or action is necessary. If identified by OIG, the servicing official will advise the Finance Office by memorandum of the determination to continue with the recipient on the existing terms of the loan/grant.

(d) *Reporting requirements to National Office.* An annual report will be submitted by the State Office to the Assistant Administrator, Community and Business Programs, within 30 days following the end of the Government's fiscal year for each case of unauthorized assistance or subsidy benefits, the report will include for each case the account name, case number, fund code, OIG audit number (if applicable), amount collected during period, and the balance owed on the unauthorized assistance. Each State Office is responsible for coordinating with the servicing official's office so that this information can be accumulated and consolidated by the State Office within the alloted time. A negative report is required from States which have no unauthorized assistance cases.

§ 1951.712–1951.714 [Reserved]

§ 1951.715 Servicing unauthorized assistance accounts.

Cases of unauthorized assistance which require Finance Office notification and action, regardless of whether they were identified in an OIG audit or by other means, will be submitted to the Finance Office by memorandum from the servicing official, as provided in applicable paragraphs of § 1951.711 of this Subpart. Each memorandum should include account (borrower) name, case number, audit report number (if applicable), finding number (if applicable), fund code, loan number, and an explanation of the actions to be taken. The explanation should provide sufficient details to allow the Finance Office to properly adjust the account. The State Office will forward a consolidated report on unauthorized grant assistance identified in an OIG audit to the Finance Office by the 15th of March, June, September, and December of each year reflecting the information reported by servicing officials in accordance with § 1951.711(b)(2) of this Subpart for inclusion in the report to OIG.

(a) *Entire loan unauthorized.* When the entire loan is unauthorized because the recipient was not eligible or because the loan was approved for unauthorized purposes, the servicing official will advise the Finance Office, by memorandum, which of the following servicing actions will be taken.

(1) *Repayment in full.* If the recipient has arranged to repay the unauthorized loan in full through refinancing or other available resources, the payment will be remitted with Form FmHA 451–2 and the schedule number will be included in the memorandum.

(2) *Continuation with loan on existing or modified terms.* When it is determined according to § 1951.711 (b)(1) or (c) of this Subpart that continuation with the loan on the existing or modified terms will be provided, the servicing official will advise the Finance Office by memorandum of this determination including an explanation of the terms, if modified.

(b) *Portion of loan unauthorized.* When only a portion of the loan has been determined to be for unauthorized purposes, the servicing official will advise the Finance Office, by memorandum, of the servicing actions as follows:

(1) *Repayment in full of unauthorized portion.* If the recipient has arranged to repay the unauthorized portion of loan through refinancing or other available resources, the remittance will be submitted with Form FmHA 451–2, and the schedule number will be included in the memorandum.

(2) *Continuation with unauthorized portion of loan on existing or modified terms.* When it is determined according to § 1951.711 (b)(1) or (c) of this Subpart that continuation with the unauthorized portion of the loan on the existing or modified terms will be provided, the servicing official will advise the Finance Office by memorandum of this determination, including an explanation of the terms if modified. The authorized portion will retain the original loan number with installments adjusted accordingly. Payments previously made will not be reversed and reapplied. The amortized unauthorized amount will be assigned the next available loan number. Installments for the authorized and unauthorized loans will be scheduled and paid concurrently.

(c) *Unauthorized subsidy benefits received.* The unauthorized subsidy benefits received will be serviced according to § 1951.711 (b)(3) or (c) of this Subpart.

(d) *Liquidation Pending.* When liquidation is initiated under the provisions of this Subpart, the servicing official will advise the Finance Office, by memorandum, that an unauthorized assistance account is to be established. This account will be flagged "FAP" (Foreclosure Action Pending) or "CAP" (Court Action Pending), as applicable.

(e) *Liquidation not initiated.* Cases in which liquidation would normally be initiated, but where it is not because of the provisions of § 1951.708(e)(1) of this Subpart, will be serviced in accordance with § 1951.708(e)(1)(iii) of this Subpart. If the unauthorized assistance was identified through means other than an OIG audit report, the Finance Ofice will not be notified and no action is necessary.

(f) *Unauthorized grant assistance.* A grant that is to be repaid will be serviced according to § 1951.711(b)(2) of this Subpart. If the unauthorized assistance was identified through means other than an OIG audit report and a determination has been made not to recover, the Finance Office will not be notified and no action is necessary.

(g) *Reporting.* At prescribed intervals, the Finance Office will report to the OIG on the status of cases involving unauthorized assistance which were identified by OIG in audit reports. For reporting purposes, the following applies:

(1) For an unauthorized loan account established as provided in paragraphs (a) or (b) of this section, reporting will be as follows:

(i) When unauthorized assistance is paid in full, this will be reported on the next scheduled report only.

(ii) When continuation of the loan on existing or modified terms is approved, this will be reported on the next scheduled report, and no further reporting is required.

(2) For unauthorized subsidy cases as provided in paragraph (c) of this section, once the interest rate has been appropriately adjusted, the unauthorized subsidy will be reported as resolved on the next scheduled report. No further reporting is required.

(3) When an account is established with liquidation action pending as provided in paragraph (d) of this section, the status will be included on each scheduled report until the liquidation is completed or the account is otherwise paid in full.

(4) When liquidation is not initiated as provided in paragraph (e) of this section, this will be reported on the next scheduled report. No further reporting is required.

(5) When unauthorized grant assistance is scheduled to be repaid as provided in paragraph (f) of this section, collections and status will be included in the report to OIG until the amount is paid in full.

§ 1951.716. Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with any applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be made in writing by the State Director and submitted through the Assistant Administrator, Community and Business Programs. Requests will be supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.717–1951.750 [Reserved]

Authorities: 7 U.S.C. 1989, 42 U.S.C. 1480, 42 U.S.C. 2942, 5 U.S.C. 301, sec. 10, Pub. L. 93–357, 88 Stat. 392, 7 CFR 2.23, 7 CFR 2.70, 29 FR 14764, 32 FR 9850.

Dated: February 13, 1984.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 84–13782 Filed 5–22–84; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 822–3122]

Cynex Manufacturing Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Hillside, N.J. manufacturer and seller of a power factor controller (a device claimed to reduce the amount of electricity used by any motorized electrical home appliance or tool), among other things, to cease making any energy-related claim for its product unless the claim is based on competent and reliable substantiation. The order would also bar the firm from making energy-related claims using the term "up to" or words of similar import, unless a significant number of consumers can achieve the maximum levels of savings or performance claimed; and where consumers cannot reasonably foresee the major factors or conditions affecting the maximum levels of savings or performance, the order would require that the firm clearly and prominently disclose the class of consumers who can achieve those levels. The company would be further prohibited from misrepresenting the purpose, content or conclusions of any test or study; and required to retain records substantiating claims for a period of three years.

DATE: Comments must be received on or before July 23, 1984.

ADDRESS: Comments should be directed to: Federal Trade Commission, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Federal Trade Commission, Brinley H. Williams, B-407, Washington, D.C. 20580. (202) 376–8720.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Power factor controllers, Trade practices.

Before Federal Trade Commission

[File No. 822 3122]

Agreement Containing Consent Order To Cease and Desist

In the Matter of Cynex Manufacturing Corporation, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Cynex Manufacturing Corporation, and it now appearing that Cynex Manufacturing Corporation, a coproration, hereinafter sometimes referred to as respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Cynex Manuafacturing Coproration, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Cynex Manufacturing Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 28 Sager Place, Hillside, New Jersey 07205.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates, that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect

thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order, the following definitions shall apply:

"Energy-related claim" means any general or specific, oral or written representation that, directly or by implication, describes or refers to energy savings, efficiency or conservation, electricity savings, or electricity cost savings.

A "competent and reliable test" means any scientific, engineering, or other analytical report or study prepared by one or more persons with skill and expert knowledge in the field to which the material pertains and based on testing, evaluation, and analytical procedures that ensure accurate and reliable results.

A "power factor controller" means any device for use with motorized home appliances or tools that reduces the voltage applied to electric alternating current motors by sensing the phase angle between motor voltage and current.

Part I

It is ordered that respondent Cynex Manufacturing Corporation, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any power factor controller or any other product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Making any energy-related claim for any power factor controller unless, at the time that the claim is made, respondent possesses and relies upon a reasonable basis consisting of a competent and reliable test or other objective material which substantiates the claim.

(2) Making any energy-related claim which uses the phrase "up to" or words of similar import unless the maximum level of savings or performance can be achieved by an appreciable number of consumers; and, further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the maximum level of savings or performance, cease and desist from failing to disclose clearly and prominently the class of consumers who can achieve the maximum level of savings or performance.

(3) Making any claim concerning the performance capabilities of any power factor controller unless, at the time that the claim is made, respondent possesses and relies upon a reasonable basis consisting of a competent and reliable test or other objective material which substantiates the claim.

(4) Misrepresenting in any manner, directly or by implication, the purpose, content, or conclusion of any test or study upon which respondent relies as substantiation for any energy-related claim or performance claim, or making any statement or representation which is inconsistent with the results or conclusions of any such test or study.

Part II

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any power factor controller, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall maintain written records:

1. Of all materials relied upon in making any claim or representation covered by this order;

2. Of all test reports, studies, surveys or demonstrations in its possession that contradict, qualify, or call into question the basis upon which respondent relied at the time of the initial dissemination and each continuing or successive dissemination of any claim or representation covered by this order.

Such records shall be retained by respondent for a period of three years from the date respondent's advertisements, sales materials, promotional materials or post purchase materials making such claim or representation were last disseminated. Such records shall be made available to the Commission staff for inspection upon reasonable notice.

Part III

It is further ordered that respondent shall forthwith distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation and placement of advertisements or other sales materials, and to each of its distributors, dealers and any other person engaged in the wholesale or retail sale of any power factor controller manufactured by or for respondent.

Part IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

Part V

It is further ordered that respondent shall, within sixty (60) days after this order becomes final, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from Cynex Manufacturing Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take

other appropriate action or make final the agreement's proposed order.

This matter concerns radio and print advertisements for the Watt Wizard Model PFC 1000, power factor controller. A power factor controller is an electrical device intended to reduce the amount of electricity used by household appliances or tools powered by an AC induction motor when the motor is operating at less than rated load. The complaint challenges advertisements which explicitly or implicitly claim that:

a. The device will save an appreciable number of consumers 60 percent or close to 60 percent of the electricity used by and cost of operating any motorized electrical home appliance or tool under circumstances reasonably foreseen by consumers.

b. Cynex Manufacturing Corporation possessed and relied upon a reasonable basis for its 60 percent energy and cost savings claim at the time the claim was made.

Staff evaluated substantiation materials submitted by the company in support of these claims. These materials consisted of tests conducted on power factor controllers, inlcuding the Watt Wizard Model PFC 1000. Staff determined that these tests were inadequate to support the advertised claims.

The complaint charges that few, if any, consumers using the Watt Wizard Model PFC 1000 will save 60 percent or close to 60 percent of the electricity used by and the cost of operating any motorized electrical home appliance or tool under reasonably foreseen circumstances. The complaint also charges that the device cannot save any electricity used by, or any of the cost of operating home appliances or tools powered by universal or brush motors such as those typically used in vacuum sweepers.

The proposed consent order contains provisions designed to remedy the advertising violations charged, as well as to prevent respondent from engaging in similar allegedly illegal acts and practices in the future.

The order contains "reasonable basis" provisions consistent with Commission case law requirements which have evolved over the years. In future advertising for power factor controllers, the company must possess and rely upon a reasonable basis consisting of competent and reliable evidence in support of any energy related claim or any performance claim. Cynex is prohibited from making any energy related claim using the phrase "up to" or words of similar import unless the maximum level of savings can be achieved by an appreciable number of consumers. Further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the maximum level of savings or performance, the company must disclose in future advertising the class of consumers who can achieve the maximum savings or performance. The order also prohibits Cynex from misrepresenting the purpose, content or conclusion of any test or study which Cynex relies upon in support of any energy-related or performance claim.

Finally, the order contains three-year recordkeeping provisions requiring the retention of materials which support future advertising claims, as well as those which may contradict or qualify such claims.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

Dissenting Statement of Commissioner Michael Pertschuk in Cynex Manufacturing Corporation

May 16, 1984.

The Commission has erred in voting to accept the consent order negotiated by the staff in this case. This order conflicts with recent Commission precedent concerning energy-related claims using the phrase "up to " and omits an important limitation on such claims. I am also concerned that the vague language of the order creates serious enforcement problems.

The *Plaskolite* case (C. 3104) (February 23, 1983) is the most recent Commission precedent on "up to" claims. That order, in clear and concise language, prevents the use of "up to" claims unless ". . . (a) the maximum level of performance claimed can be achieved by an appreciable number of consumers under circumstances normally and expectably encountered by consumers, and (b) the class of persons who can achieve the maximum level of performance claimed is disclosed." For no apparent reason, the Commission here has abandoned the disclosure requirement as long as consumers can "reasonably foresee the major factors or conditions affecting the maximum level of savings or performance."[1] It certainly is not hard to imagine conflicting views over which factors affecting energy savings may be reasonably foreseeable and, thus, whether disclosure is required. Even if a factor is "reasonably foreseeable," consumers might nonetheless be misled about the extent to which a "reasonably foreseeable factor" will affect energy savings. Therefore, I am concerned that the order may be ineffective as well as essentially unenforceable.

I believe that the Commission should reject the consent order and return it to the staff with instructions to renegotiate the order to include these important omissions.

[1] The order also diverges from the standard adopted by the Commission in *Cliffadle Associates, Inc.* (D 9156) (March 23, 1984), prohibiting claims which purport to represent the typical or ordinary experience of consumers who use the product unless the claims are in fact consistent with ordinary consumer experience.

[FR Doc. 84-13799 Filed 5-22-84; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Review of Existing Rules Issued Under the Flammable Fabrics Act

AGENCY: Consumer Product Safety Commission.

ACTION: Reopening of comment period.

SUMMARY: The Commission announces that it is reopening the period for receipt of written comments on existing standards and regulations issued under provisions of the Flammable Fabrics Act until July 6, 1984. In accordance with provisions of the Regulatory Flexibility Act (5 U.S.C. 610), the Commission published a notice in the **Federal Register** of February 2, 1984 (49 FR 4103) which summarized the rules under consideration and solicited written comments on these rules through April 2, 1984. In response to that notice, one trade association stated that it desires to comment on some of these rules but will need more time to prepare its comments in view of the complexity of issues involved and the need to obtain historical information which is not readily available. To assure that all interested parties have opportunity to prepare comments on these rules, the Commission is reopening the comment period in this proceeding.

DATES: Interested parties are invited to submit written comments on existing rules issued under the Flammable Fabrics Act through July 6, 1984.

ADDRESS: Comments and any accompanying materials should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C., 20207, and titled "Regulatory Flexibility Act Review of FFA Rules."

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the

General Counsel, Consumer Product Safety Commission, Washington, D.C., 20207; telephone (301) 492–6980. Inquiries from the press and broadcast media should be addressed to Lou Brott, Office of Public Affairs; telephone: (202) 634–7780.

The purpose of the rule review activity and the rules under consideration are described in the notice of February 2, 1984 (49 FR 4103)

Dated: May 18, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84–13860 Filed 5–22–84; 8:45 am]

BILLING CODE 6355–01–M

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16 CFR Part 1700

Poison Prevention Packaging Requirements; Exemption of Certain Conjugated Estrogen and Norethindrone Acetate Tablets

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposed to exempt certain conjugated estrogen and norethindrone acetate tablets from the requirements for child-resistant packaging that currently apply because these substances are oral prescription drugs. These drugs are used for the treatment of a variety of female hormonal imbalance disorders. The exemption is being proposed because of the low toxicity of these drugs.

DATES: Written comments on this proposal may be submitted until July 23, 1984.

The exemption is proposed to become effective at the time a final rule is published in the **Federal Register.**

ADDRESSES: Comments on the proposal may be mailed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to the Public Reading Room, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, NW., Washington, D.C.

All documents that the Commission has concerning this proposal may be inspected at, or copies obtained from, the Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Washington, D.C. 20207 (301), 492–6957.

Inquiries from the media should be directed to Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 634–7780.

SUPPLEMENTARY INFORMATION:

A. The Petition

By letter dated May 20, 1983, Ayerst Laboratories petitioned the Commission to exempt mnemonic [1] dispenser packages of conjugated estrogen tablets and norethindrone acetate tablets from special packaging requirements under the Poison Prevention Packaging Act of 1970(PPPA), 15 U.S.C. 14671–1476. These drug products are hormones used for the treatment of a variety of female hormonal imbalance disorders and are required to be in special packaging because they are oral prescription drugs subject to 16 CFR 1700.14(a)(10).

As justification for the exemptions, the petitioner submitted animal test data and human experience data which indicated the absence of acute toxicity resulting from accidental ingestion of conjugated estrogens or norethindrone acetate by young children. The petitioner also states that the exemptions are warranted because the active ingredients in these products are identical, or similar to those found in the cyclically administered oral contraceptive drugs for which exemptions were previously proposed by the Commission and which are in effect on an interim basis (39 FR 5197; February 11, 1974).

Conjugated estrogens have been available for several decades as a prescription drug for the treatment of female hormonal imbalances. It is estimated that between 2.9 and 3.6 million women are now using these products, which are manufactured by about 12 companies.

Norethindrone acetate is a progestin used in both oral contraceptives and in hormonal supplements. Its use in oral contraceptives is widespread being present in combination with estrogens or other hormones; and, this is probably the most common route of exposure of American women to this drug.

As a hormonal supplement used to treat female hormonal imbalances, norethindrone acetate has a relatively small market compared with other prescription products. It is believed that only two companies offer oral prescription norethindrone acetate products, and that a few very small manufacturers of generic varieties may exist on the market from time to time.

[1] A mnemonic package is any package designed to administer one dosage unit at time, and incorporating any feature which serves to remind the user to take the dosage at regularly specified intervals through out the period during which the medication is to be administered.

The petitioner indicated that if the exemption were granted, the conjugated estrogen tablets would be marketed in mnemonic packages of up to 21 1.25 mg tablets. The norethindrone acetate tablets would be marketed in mnemonic packages of up to 10 5 mg tablets. The petitioner argues that the mnemonic packaging will greatly aid patient compliance and convenience. The Commission believes that limiting an exemption to tablets dispensed in mnemonic packages will also serve to limit the amount of the drug to which a child could gain access in a reasonable time.

B. Toxicity Data

Theoretical lethal dose. Based upon extrapolation of animal data submitted by the petitioner, the theoretical lethal dose of conjugated estrogens, for a 10 kilogram (22 pounds) child, would be between 1.8 and 3.3 grams, which is equivalent to 70–125 times the amount of the drug contained in a single package. The theoretical lethal dose for the progestin would be between 12.6 and 50.1 grams, which is equivalent to 250–1,000 times the amount contained in a single package.

Chronic toxicity. Both estrogens and progestins should be avoided during pregnancy because of possible damage to the fetus. Similar effects have been observed for a variety of drugs, indicating the special susceptibility of the fetus *in utero* to the toxic effects of many chemicals and drugs.

Long-term therapeutic administration of estrogenic compounds has been shown to lead to an increased risk, in women, of endometrial cancer, and of various blood clotting disorders. There is, however, no evidence that such effects would be expected from a single acute exposure in a child. No such effects have been reported over the 20 to 30 years during which these drugs have been marketed.

C. Injury Data

The staff examined data from the Food and Drug Administration (FDA), Division of Poison Control, and from the Commission's Children and Poisoning (CAP) database, regarding accidental ingestions of estrogens and progestins by children under age five. In addition to data involving those brands specified in the petition, all generic and other brands were examined.

Data from the FDA for the five-year period from 1977 through 1981 show 231 reported cases of estrogen ingestions. Nine of these cases reported symptoms of nausea or vomiting. None of the children was hospitalized. Eighty-eight

accidental ingestions of progestins were reported by no symptoms were reported in these cases. One of the 88 children was hospitalized. This case did not mention any symptomatology, indicating that the child may have been kept for observation as a precautionary measure.

The CAP database showed nine cases of estrogen ingestions, and 4 cases of progestin ingestions for the period from January, 1978 through October, 1983. In 12 cases, the children were treated and released; in one case, the child was treated and transferred, but not hospitalized. National Electronic Injury Surveillance System (NEISS) estimates based on these cases are 178 for estrogens, and 225 for progestins. Caution should be used in interpreting these estimates because of the higher degree of sampling variability associated with small sample sizes.

D. FDA Comments

The petition was sent to the FDA for comment. The FDA reviewed poison control data for conjugated estrogens and norethindrone acetate for the years 1979 through 1981. These data show that neither product was involved in significant numbers of accidental ingestions by young children under age five. Exposure to conjugated estrogens ranged from 2.2 to 3.1 percent of the total accidental hormonal ingestions, while exposure to norethindrone acetate ranged from 0.2 to 5.0 percent of such ingestions. The number of children who exhibited symptoms following ingestion of conjugated estrogens ranged from 2.3 to 6.0 percent. No symptoms were reported in association with ingestion of norethindrone acetate.

The FDA states that these data suggest that the frequency of acute injury from ingestion of either product will remain low. Further, the FDA would not expect the availability of either product in mnemonic packaging to increase the percentage of reported cases. The FDA also examined the possible chronic health effects of the two drug products on young children and concluded that, as packaged, these two drug products do not pose long-term risk to children who may accidentally ingest them.

E. Action on the Petition

After considering the available information, the Commission preliminarily concluded that the degree or nature of the hazard to children in the availability of the conjugated estrogen tablets and norethindrone acetate tablets that are the subject of this petition is such that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using or ingesting such substances. Accordingly, the Commission voted to grant the petition. (The documents considered by the Commission that are relevant to sections A–D above are contained in a staff briefing package dated January 26, 1984, with attached Tabs A–E. Copies of this briefing package, except for information received from the petitioner for which claims of confidentiality have been made, may be inspected, or copies obtained from, the Office of the Secretary.)

F. Regulatory Flexibility Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.) generally requires the agency to prepare a regulatory flexibility analysis describing the impact of the proposed rule on small businesses. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 601 note), is to require agencies, consistent with their objective, to fit the requirements of regulations to the scale of the businesses, organizations, and govermental jurisdiictions subject to regulation. Section 605 of the act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

The proposed exemption, if promulgated, will have the effect of granting to the manufacturers of the exempted products the option of packaging their products in an additional manner. The difference in costs for packaging with special packaging and with packaging permitted by the exemption is not believed to be significant. Accordingly, the Commission certifies that this proposed exemption, if promulgated, will not have any significant economic effect on a substantial number of small entities.

G. Environmental Considerations

The Commission's regulations governing environmental review procedures state at 16 CFR 1021.5(c)(3) that exemption of products from requirements for child-resistant packaging under the PPPA normally have little or no potential for affecting the human environment. The Commission does not foresee any special or unusual circumstances surrounding the exemption proposed below. For this reason, neither an environmental assessment nor an environmental impact statement required in this proceeding.

H. Effective Date

Since the proposed rule provides for an exemption, the provision of 5 U.S.C. 553(c) requiring a delay in the effective date is inapplicable. Accordingly, the Commission proposes that the rule shall become effective at the time the final rule is published in the **Federal Register**.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Conclusion

For the reasons given above, the Commission, under sections 2, 3, and 5 of the Poison Prevention Packaging Act (Secs. 2, 3, 5, Pub. L. 91–601, 84 Stat. 1670–72, 15 U.S.C. 1471–72, 1474) proposes to amend § 1700.14(a)(10) of Title 16 of the Code of Federal Regulations by adding subparagraphs (xvii) and (xviii), reading as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) * * *

(xvii) Conjugated Estrogen Tablets, U.S.P., when dispensed in mnemonic packages containing not more than 26.5 mg of the drug and containing no other substances subject to this § 1700.14(a)(10).

(xviii) Norethindrone Acetate Tablets, U.S.P., when dispensed in mnemonic package containing not more than 50 mg of the drug and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

Dated: May 17, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84–13858 Filed 5–22–84; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 107

[Docket No. 83N–0270]

Nutrient Requirements for Infant Formulas

Correction

In FR Doc. 84–9171, beginning on page 14396 of the issue of Wednesday, April 11, 1984, make the following corrections:

1. On page 14396, second column, sixth line from the bottom," phylloqluinone" should read "phylloquinone".

2. On page 14397, in the second column of the table change "do." to "milligrams" following the entries for the "Vitamin C (Ascorbic acid)" and "Sodium".

3. On page 14398, in the second table: (a) In the fourth column following the entry for "Manganese (Mn)", "1.2 mg" should be "1.2 μg"; (b) in the third column following the entry for "Choline", "N.S.[3]" should read "N.S.[2]".

4. On page 14400, second column, paragraph 10.10, the fifth line, "unsufficient" should be "insufficient".

BILLING CODE 1505-01-M

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21 CFR Part 510

[Docket No. 83N-0340]

Corticosteriod Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulation on labeling requirements for use of corticosteriod animal drugs to delete intramammary products, add ophthalmic products, and add an additional warning concerning certain cogenital anomalies. This action is being taken because the agency has received reports of adverse reactions associated with the use of corticosteroids in animals.

DATE: Written comments by July 23, 1984. The agency proposes that any final rule based on this proposal become effective 180 days after publication of the final rule. (See Supplementary Information for full discussion of the proposed effective date.)

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

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 18, 1970 (35 FR 11556), FDA published a rule providing for certain labeling requirements concerning oral and parenteral use of corticosteroid animal drugs (21 CFR 135.101, recodified as 21 CFR 510.410). This regulation required labeling for corticosteroid drugs to bear the statement "Warning: Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis." In the Federal Register of November 16, 1972 (37 FR 24343), FDA amended that regulation to include intramammary products.

FDA has received additional information consisting of published literature and adverse reaction reports concerning congenital anomalies associated with animal use of corticosteroids. In addition, the results of a published study support the need for warning statements relating to use of ophthalmic preparations containing corticosteroids. Copies of adverse reaction reports and literature references are on display with the Dockets Management Branch (address above), and may be seen between 9 a.m. and 4 p.m., Monday through Friday. FDA has also determined that inclusion of any reference to intramammary products is not needed because these products no longer include steroids in their fomulations. Therefore, FDA is proposing to amend the regulation by adding a warning concerning congenital anomalies, removing intramammary products, and adding ophthalmic products.

The agency proposes that any final rule based upon this proposal become effective 180 days after publication of the final rule in the Federal Register. The final rule would apply to affected products initially introduced or initially offered for introduction into interstate commerce after the effective date. Supplements to approved new animal drug applications would have to be submitted to the Division of Surveillance, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, no later than 180 days after publication of the final rule. The agency proposes that revised labeling conforming to the final rule could be used without prior approval.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has determined that this proposed action is not a major rule as defined in Executive Order 12291 and certifies in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1168) that this proposed regulation will not have a significant economic impact on a substantial number of small entities. FDA estimates that approximately 22 firms manufacture or distribute approximately 50 to 70 corticosteroid animal drug products. These firms would be required to revise their labeling. These revisions would cost approximately $120,000. A copy of the economic and regulatory assessment supporting these statements is on file in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 510

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 510 be amended by revising § 510.410 to read as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.410 Corticosteroids for oral, injectable, and ophthalmic use in animals; warnings and labeling requirements.

(a) The Food and Drug Administration has received reports of side effects associated with the oral, injectable, and ophthalmic use of corticosteroid drugs in animals. The use of these drugs administered orally or by injection has resulted in premature parturition when administered during the last trimester of pregnancy. Premature parturition may be followed by dystocia, fetal death, retained placenta, and metritis. Additionally, corticosteroids used in dogs, rabbits, and rodents during pregnancy have produced cleft palate in offspring. Use in dogs has resulted in other congenital anomalies, including deformed forelegs, phocomelia, and anasarca. Drugs subject to this section are required to carry the veterinary prescription legend and are subject to the labeling requirements of § 201.105 of this chapter.

(b) In view of these potentially serious side effects, the Food and Drug Administration has concluded that the labeling on or within packaged corticosteroid-containing preparations intended for oral, injectable, and ophthalmic use in animals shall bear

conspicuously the following warning statement:

Warning: Clinical and experimental data have demonstrated that corticosteroids administered orally or by injection to animals may induce the first stage of parturition if used during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

Additionally, corticosteroids administered to dogs, rabbits, and rodents during pregnancy have resulted in cleft palate in offspring. Corticosteroids administered to dogs during pregnancy have also resulted in other congenital anomalies including deformed forelegs, phocomelia, and anasarca.

Interested persons may, on or before July 23, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. 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: May 8, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-13768 Filed 5-22-84; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1699/P338 PH-FRL 2590-8]

Dimethyl Tetrachloroterephthalate; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites in or on the raw agricultural commodities radish roots and radish tops. The proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 6E1699/P338], must be received on or before June 22, 1984.

ADDRESS: Written comments by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M ST., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1699 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of California and Oklahoma.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) in or on the raw agricultural commodities radish roots at 2.0 parts per million (ppm) and radish tops at 5 ppm. The petition was later amended to propose tolerances for radish roots at 2.0 ppm and radish tops at 15 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a 2-year rat feeding study with a no-observed-effect level (NOEL) of 500 mg/kg (10,000 ppm) and negative for oncogenic effects at all levels fed (100, 1,000, and 10,000 ppm); a 2-year dog feeding study with a NOEL of 250 mg/kg (10,000 ppm); a 2-generation rat reproduction study with a NOEL greater than 500 mg/kg (10,000 ppm); and a rabbit teratology study, negative for teratogenic effects at 300 mg/kg (10,000 ppm). Data considered desirable, but lacking, include an oncogenicity study and a teratology study, each in a second species, and mutagenicity studies.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 50 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.5 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 30 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.4223 mg/day; the current action will increase the TMRC by 0.00765 mg/day (1.8 percent). Published tolerances utilize 1.41 percent of the ADI; the current action will utilize an additional 0.026 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Since there are no animal feed items involved, no secondary residues in meat, milk, poultry, or eggs are anticipated. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.165 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must

bear a notation indicating the document control number, [PP 6E1699/P338]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 8, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.185 be amended by adding and alphabetically inserting the raw agricultural commodities radish roots and radish tops to read as follows:

§ 180.185 Dimethyl tetrachloroterephthalate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Raddish, roots	2.0
Raddish, tops	15.0
* * * * *	

[FR Doc. 84-13447 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2895/4E2973/P337; PH-FRL 2590-7]

Norflurazon; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the herbicide nonflurazon and its metabolite in or on the raw agricultural commodities blackberries, blueberries, and raspberries. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was requested pursuant to petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 3E2895, 4E2973/P337], must be received on or before June 22, 1984.

ADDRESS: Written comments by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section, (TS-76C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Arkansas, Michigan, Minnesota, New Jersey, Oregon, Virginia, and Washington and the United States Department of Agriculture (PP 3E2895) and Minnesota, Oregon, and Virginia (PP 4E2973).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone and its desmethyl metabolite 4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone in or on the raw agricultural commodities blackberries and raspberies at 0.1 part per million (ppm) (PP 4E2973) and blueberries at 0.2 ppm (PP 3E2895).

The data submitted in these petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a 90-day rat feeding study with a no-observed effect level (NOEL) of 500 ppm (25 mg/kg); a 90-day dog feeding study with a NOEL of 500 ppm (12.5 mg/kg); an Ames test (negative); a rat teratology study, negative at 400 mg/kg/day (highest dose tested); a 3-generation rat reproduction study with a NOEL of 375 ppm (18.75 mg/kg); a 1-generation mouse reproduction study with a NOEL of 340 ppm (51 mg/kg); a 6-month dog feeding study with a NOEL of 150 ppm (3.75 mg/kg); a 2-year rat chronic feeding/oncogenicity study with a NOEL of 375 ppm (18.75 mg/kg) and no observed oncogenic effects at any level tested (2, 125, 375 or 1,025 ppm); a 2-year mouse chronic feeding/oncogenicity study with a NOEL of 340 ppm (51 mg/kg) and no observed oncogenic potential at the 85 and 340 ppm dose levels. This study showed a statistically significant increase in liver neoplasms in the male dose group (1,360 ppm). The Agency has carefully evaluated the supporting data for these tolerances, and based on the following considerations, has determined that residues resulting from these tolerances will not result in a significant risk to humans.

Both rat and mouse chronic feeding/oncogenicity studies utilized *in utero* exposed or F_{1a} generation animals. This is considered a very stringent test method for evaluating oncogenicity. Statistically significant oncogenic results did not occur in the rat oncogenic study at any dose level tested with particular attention directed to evaluation of hepatocellular changes. There was no significant increase in carcinomas for any treatment group versus controls in the mouse test, or in the rat study.

The liver was demonstrated to be the target organ in both the rat and dog, as well as the mouse. The mouse, and particularly the male sex, is considered to be very sensitive species to the development of proliferative and neoplastic liver lesions. However, statistically significant oncogenic effects did not occur in the mouse at comparable doses to those used in the rat study, but to a dose which was approximately four-fold greater (e.g., 50.75 mg/kg/day in the rat versus 204 mg/kg/day in the mouse), than the highest doses tested in rats.

Statistically significant oncogenic effects occurred in high dose male mice surviving 18 months or longer, but particularly animals surviving to 24 months. These results may reflect geriatric effects rather than compound related responses at the high dose employed. The response was limited to effects on the liver (e.g. hepatic proliferative changes).

The Agency has determined that residues from the proposed tolerances would not result in a significant risk to humans. Data considered desirable, but lacking, include a teratology study in a second species, and a rat metabolism study defining tissue retention and the percentage and identity of the major metabolites.

The acceptable daily intake (ADI), based on the 6-month dog feeding study (NOEL of 3.75 mg/kg/day) and using a 1000-fold safety factor, is calculated to be 0.0038 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.225 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0875 mg/day; the current action will increase the TMRC by 0.0002 mg/day (0.23 percent). Published tolerances utilize 38.9 percent of the ADI; the current action will utilize an additional 0.09 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography using an electron capture detector, is available for enforcement purposes. No secondary residues in meat, milk, poultry or eggs are anticipated since blackberries, blueberries, and raspberries are not considered livetock feed commodities. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.356 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2895/4E2973/P337]. All written comments filed in response to these petitions will be available in the Information Services Section, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pest.

Dated: May 8, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180.356(a) be amended by adding and alphabetically inserting the raw agricultural commodities blackberries, blueberries, and raspberries to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

* * *

Commodities	Parts per million
* * * * *	
Blackberries	0.1
Blueberries	0.2
* * * * *	
Raspberries	0.1
* * * * *	

[FR Doc. 84-13446 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[WH-FRL 2592-6]

Ocean Dumping; Notice of Public Hearings on Tentative Denial of Petitions To Redesignate the 12-Mile Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: EPA today announces the times and locations for three public hearings to be held in June to receive public comment on the tentative determination to deny petitions by several current municipal sewage treatment sludge dumpers to redesignate the 12-Mile Sludge Dump Site in the New York Bight Apex.

DATE: The public hearings will be held on the following dates.

June 18, 1984—West Long Branch, New Jersey

June 20, 1984—New York City

June 22, 1984—Hempstead, Long Island

ADDRESSES: Send comments or statements to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, D.C. 20460.

The locations of the public hearings are:

June 18: Lecture Hall E-1, Edison Science Hall, Monmouth College, Cedar and Norwood Avenues, West Long Branch, New Jersey.

June 20: City University of New York Graduate School and University Center Auditorium, 33 West 42nd Street, New York, New York.

June 22: Student Center Theater, Hofstra University, Hempstead Turnpike, Hempstead, Long Island.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: On May 4, 1984, 49 FR 19042, EPA published in the **Federal Register** a Notice of Tentative Denial of Petitions to Redesignate the 12-Mile Site and Scheduling of Public Hearings. In that notice EPA announced its intention to hold public hearings at three locations in New York and New Jersey. The dates and locations for these hearings are stated above. At each location, the

hearing is scheduled from 9 a.m. until 5 p.m. An evening session is scheduled to begin at 7 p.m. at West Long Branch and Hempstead. No evening session will be held in New York City.

It is emphasized that the purpose of these three hearings is solely to collect information concerning the tentative determination to deny petitions to redesignate the 12-Mile Site. The hearings are not concerned with individual permit actions or with the development of alternatives by any present or future ocean dumpers. Separate hearings may be held by EPA Region II in the course of evaluating permit applications.

All interested parties are invited to be present or to be represented to express their views on the tentative determination to deny petitions to redesignate the 12-Mile Site. For reasons of accuracy, however, we request that statements be submitted in writing. Oral statements should summarize any extensive written material and in general should be limited to ten minutes so that there will be time for all interested parties to be heard. If persons desire to participate in these hearings but are not able to attend, they are encouraged to send their comments or statements to the address given above on or before the dates of the hearings for inclusion in the record.

Dated: May 17, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-13789 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 83

[PR Docket No. 84-478; FCC 84-219]

Amendment of the Commission's Rules Concerning the Identification of Public High Seas Telegraphy Coast Stations and Prohibiting Radio Checks on Distress Frequencies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to allow Public High Seas Telegraphy Coast stations to use the A1 (Morse code) emission on the so-called "mark" frequency of narrow-band direct-printing channels for station identification. This notice also proposes to prohibit marine radio operators from calling the Coast Guard of VHF Channel 16 for radio checks. The first proposal is made in response to a number of requests for rule waiver over the past year; the second change was requested by the U.S. Coast Guard and is intended to alleviate congestion on the distress, safety and calling channel.

DATE: Comments must be received on or before June 28, 1984 and reply comments must be received on or before July 13, 1984.

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

FOR FURTHER INFORMATION CONTACT: Maureen Cesailtis, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radio, Telegraph.

47 CFR Part 83

Communications equipment, Radio, Telephone, Vessels.

Proposed Rule Making.

In the matter of amendment of Parts 81 and 83 of the rules concerning the identification of public high seas telegraphy coast stations and prohibiting radio checks on distress frequencies (PR Docket No. 84-478).

Adopted: May 15, 1984.

Released: May 22, 1984.

By the Commission.

1. In this proceeding we are proposing two unrelated amendments to the maritime service rules. The first proposal involves the identification of narrow-band direct-printing transmissions by coast stations. The second involves a prohibition against calling the Coast Guard for radio checks on distress frequencies.

2. Over the past year, the Commission has received a number of requests for waiver of our rules to allow public high seas telegraphy coast stations to identify using an A1 emission (telegraphy using on-off keying) on the "mark" frequency in lieu of an F1 emission (telegraphy using frequency shift keying) prior to a narrow-band direct-printing (NB-DP) transmission. The F1 signal is not intelligible when using a conventional receiver in audio mode and therefore cannot be used by the shipboard radiotelegraph officer to identify the station. The A1 signal can be readily understood by the shipboard operator. To date, no harmful interference resulting from waivers to operate in this manner has been reported. To ensure that such interference does not occur, the proposed new rule requires that no harmful interference be caused to other stations. We propose to specify the "mark" frequency rather than the "space" frequency because those stations now operating by waiver are using the "mark" frequency.

3. On October 4, 1983, the Coast Guard requested amendment of the rules to prohibit boaters from calling the Coast Guard for radio checks on the VHF distress and calling frequency, 156.8 MHz. In 1970, the Commission acted on a similar request [1] by prohibiting radio checks on the international distress, safety and calling frequency 2182 kHz, because of congestion on that frequency. The Coast Guard is now experiencing similar congestion on 156.8 MHz, and reports that in some areas "* * * they are interfering with distress guards and distress communications." We believe the Coast Guard's request is justified and we propose to prohibit radio checks on 156.8 MHz. However, as is the case with 2182 kHz, exceptions would be allowed for tests being conducted by Commission representatives or qualified radio technicians installing equipment or correcting deficiencies in the station's radiotelephone equipment.

4. Accordingly, we propose to add a new paragraph (c)(3) to § 81.143 of the rules. The new rule would give the provisions under which public high seas telegraphy coast stations may identify on the "mark" frequency using A1 emission, prior to an NB-DP transmission. We also propose to revise Section 83.178(b) and Section 83.365(a)(4) to prohibit routine radio checks on 156.8 MHz. This notice is issued under the authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r).

5. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments or or before June 28, 1984, and reply comments on or before July 13, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

6. In accordance with the provisions of § 1.419 of the Rules and Regulations,

[1] Report and Order in Docket No. 18715, adopted April 22, 1970, 35 FR 6757.

47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

7. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written, or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

8. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we certify that the proposed new rules will not have a significant economic impact on a substantial number of small entities. The proposed change relating to identification of public high seas telegraphy coast stations would potentially affect less than 15 stations and is entirely permissive in nature. The second proposal concerns radio test procedures on the VHF safety and calling channel and will not result in any economic impact.

9. Regarding questions on matters covered in this document contact Maureen Cesaitis, (202) 632-7175.

10. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Section 81.143 is amended by adding a new subparagraph (c)(3) to read as follows:

§ 81.143 Narrow-band direct-printing radiotelegraph equipment.

* * * * *

(c) * * *

(3) Class A1 emission may be used on the "mark" frequency for station identification at licensed public high seas telegraphy coast stations and for establishing communications with ship stations, provided no harmful interference is caused.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. Section 83.178 is amended by revising paragraph (b) to read as follows:

§ 83.178 Unauthorized transmissions.

* * * * *

(b) Use selective calling on 2182 kHz or 156.8 MHz, or call the U.S. Coast Guard for radio checks on either of these frequencies.

* * * * *

2. Section 83.365 is amended by revising the heading and paragraphs (a) and (b) in their entirety, and by adding new paragraph (C), all to read as follows:

§ 83.365 Test procedures.

(a) Ship stations, when conducting operational transmitter tests, must avoid causing harmful interference to other transmissions. If feasible, radiation must be entirely suppressed. If radiation cannot be suppressed, the following procedures shall be followed.

(1) Prior to the test, the operator of the ship's transmitter must determine that interference will not be caused to any communication in progress. If the test transmissions are likely to interfere with other transmissions, the test operator must obtain the consent of the other station(s) before initiating the test;

(2) The testing station's call sign, followed by the word "test", must be announced on the radio-channel being used for the test;

(3) If any station responds "wait", the test must be suspended for a minimum of 30 seconds, then repeat the call sign followed by the word "test" and listen again for a response. To continue the test, the operator will use counts or phrases which do not conflict with normal operating signals, and will end with the ship's call sign. Test signals must not exceed ten seconds, and shall not be repeated until at least one minute has elapsed. On the frequency 2182 kHz or 156.8 MHz, the time between tests must be a minimum of five minutes.

(b) Testing of transmitters must be confined to single frequency channels on working frequencies. However, 2182 kHz and 156.8 MHz may be used to contact other ship or coast stations when signal reports are necessary. Short tests on 2182 kHz by vessels with DSB (A3) equipment for distress and safety purposes are permitted to evaluate the compatibility of that equipment with an SSB emission (A3J) system. U.S. Coast Guard stations may be contacted on 2182 kHz or 156.8 MHz for test purposes *only* when tests are being conducted during inspections by Commission representatives or when qualified radio technicians are installing equipment or correcting deficiencies in the station radiotelephone equipment. In these cases the test must be identified as "FCC" or "technical".

(c) Survival craft transmitter tests may not be made within range of automatic alarm receivers which they can actuate. Survival craft transmitters may not be tested on the frequency 500 kHz during the silence periods.

[FR Doc. 84-13816 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 40452-4052]

Groundfish of the Gulf of Alaska

Correction

In FR Doc. 84-11393 beginning on page 18144 in the issue of Friday, April 27, 1984, make the following correction:

On page 18145, § 672.20, in Table 1, footnote 5 should have read as follows: "[5] The category "Other species" includes sculpins, sharks, skates, smelts, capelin, and octopus. The OY is equal to 5% of the upper range of the total OYs of the target species."

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 49, No. 101
Wednesday, May 23, 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.

ACTION

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

AGENCY: ACTION.

ACTION: Notice of revision of income eligibility levels for Foster Grandparent and Senior Companion Programs.

SUMMARY: This notice revises the schedules of income eligibility levels for individuals and families for the Foster Grandparent and Senior Companion Programs published in the **Federal Register** April 28, 1983 (48 FR 19190). The revised schedule is based on revised Poverty Income Guidelines from DHHS, effective February 27, 1984. This revision adopts as the income eligibility level for each State the higher amount of either: (a) 125% of the DHHS Poverty Income Guideline, or (b) 100% of the DHHS Poverty Income Guideline plus the amount each state supplements Federal SSI, rounded to the next highest multiple of $5.00.

Any person whose income is not more than 100 percentum of the DHHS poverty income guideline for her/his specific family unit status shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

EFFECTIVE DATE: May 23, 1984.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., Room M–1006, Washington, D.C. 20525, or telephone toll free (800) 424–8580, extension 239 or (202) 634–9355.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to Section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guideline published by DHHS pursuant to Sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty income guidelines to be adjusted for Consumer Price Index changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

SCHEDULE OF INCOME ELIGIBILITY LEVELS: FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAM

[For family units of:]

State	One	Two	Three	Four	Five	Six	Seven	Eight
Alaska	$9,265	$12,710	$15,425	$18,140	$20,855	$23,570	$26,285	$29,000
California	6,940	11,690	13,665	16,040	18,215	20,390	22,565	24,740
Colorado	6,225	9,985	12,160	14,335	16,510	18,685	20,860	23,035
Connecticut	6,805	8,980	11,155	13,330	15,505	17,680	19,855	22,030
Hawaii	7,165	9,665	12,165	14,665	17,165	19,665	22,165	24,665
Massachusetts	6,530	9,145	11,320	13,495	15,670	17,845	20,020	22,195
Oklahoma	6,225	8,450	10,625	12,800	14,975	17,150	19,325	21,500
Wisconsin	6,225	8,655	10,830	13,005	15,180	17,355	19,530	21,705
For all other States, the District of Columbia, Puerto Rico and the Virgin Islands	6,225	8,400	10,575	12,750	14,925	17,100	19,275	21,450

For family units with more than eight members add the appropriate supplement for each additional member over eight as follows:

Alaska	$2,715
Hawaii	2,500
All others	2,175

All of the above levels are calculated from the base DHHS Poverty Income Guidelines now in effect.

Those guidelines are:

Size of family unit	For all States (except Alaska and Hawaii) and the District of Columbia	For Alaska	For Hawaii
1	$4,980	$6,240	$5,730
2	6,720	8,410	7,730
3	8,460	10,580	9,730
4	10,200	12,750	11,730
5	11,940	14,920	13,730
6	13,680	17,090	15,730
7	15,420	19,260	17,730
8	17,160	21,430	19,730

For family units with more than eight members, add the appropriate amount for each member:

For all States (except Alaska and Hawaii) and the District of Columbia: $1,740.
For Alaska: 2,170.
For Hawaii: 2,000.

Signed at Washington, D.C., this 17th day of May, 1984.

Don L. Smith,

Director, Administrative Services Division.

[FR Doc. 84-13800 Filed 5-22-84; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 18, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or

reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revised

• Food Safety & Inspection Service
Regulations Governing Meat Inspection
On Occasion, Weekly, Daily, Recordkeeping
Businesses, Small Businesses: 1,855,485 responses; 144,146 hours; not applicable under 3504(h)
William C. Hauser (202) 447–8420

• Farmers Home Administration
Form FmHA 410–4, Application for Rural Housing Assistance (Non Farm Tract)
FmHA 410–4
On Occasion
Individuals or Households: 315,000 responses; 393,750 hours; not applicable under 3504(h)
Ruth Smith (202) 382–1488

• Farmers Home Administration
7 CFR 1944–A, section 502 Rural Housing Loan Policies, Procedures and Authorizations
FmHA 431–3, 440–34, 1944–4, 1944–6, 1944–A6, 1944–12, 1944–36
On Occasion
Individuals & Households, Small Businesses: 699,600 responses; 351,150 hours; not applicable under 3504(h)
Ruth Smith (202) 382–1488

• Farmers Home Administration
7 CFR 1930–C, Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients
FmHA 444–8, 444–27A, 1930–5 thru 8, 1944–25, 1944–27, 1944–29
On Occasion, Monthly, Recordkeeping
Individuals, State or Local Governments, Farms, Businesses: 1,549,040 responses; 401,594 hours; not applicable under 3504(h)
Bill Daniel (202) 387–1619

Revised

• Animal and Plant Health Inspection Service
Permit for Movement of Restricted Animals
VS Form 1–27
On Occasion
Farms: 48,047 responses; 2,402 hours; not applicable under 3504(h)
Dr. Robert D. Whiting (301) 436–8695

Extension (Burden Change)

• Agricultural Marketing Service
Cotton on Hand in Mills
CN–110
Annually
Businesses: 400 responses; 100 hours; not applicable under 3504(h)
Loyd R. Frazier (202) 447–2147

Reinstatement

• Food and Nutrition Service
Coupon Account and Destruction Report
FNS–471
Monthly
State or Local Governments: 36,000 responses; 12,850 hours; not applicable under 3504(h)
Paul Jones (703) 756–3454

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–13862 Filed 5–22–84; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Environmental Impact Statement; Cancellation Notice

California Nickel Corporation, Gasquet Mountain Project, 1984 Operational Plan, Six Rivers National Forest, Gasquet Ranger District, Del Norte County, California; Intent to Prepare an Environmental Impact Statement.

I have determined that the EIS Process should be terminated because the Environmental Assessment Report for this project has been completed and a determination made that an EIS was not needed. A Notice of Intent to prepare an EIS was published in the **Federal Register**, Vol. 49, No. 79, p. 17058, April 23, 1984.

Dated: May 16, 1984.

Jan R. Seils,

Deputy Forest Supervisor.

[FR Doc. 84–13766 Filed 5–22–84; 8:45 am]

BILLING CODE 3410–11–M

Recreation Residence Authorizations; Proposed Fee Policy Changes

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: The Forest Service proposes to change certain procedures for determining annual rental fees for privately owned recreation residences on National Forest System lands. The proposal results from a major review of alternative fee approaches mandated by Congress.

The major changes proposed are to adopt a 20-year fee review cycle instead of the present 5-year review cycle and to annually adjust fees based on the overall Consumer Price Index. The intended effect is to help resolve the long-standing controversy and permittee complaints about fee increases and to substantially reduce Agency costs of administering recreation residence permits.

DATE: Public comments must be received on or before July 23, 1984.

ADDRESS: Comments may be mailed to R. Max Peterson, Chief, (2720) Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Wayne Shepherd, Lands Staff, Forest Service, 703–235–2411.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service initiated a recreation residence program in the late 1910's to promote opportunities for outdoor recreation use on the National Forests. At the time, access to National Forests was difficult and there were few private or public recreation facilities available to the general public. This situation has changed dramatically over the years.

With improved transportation systems and availability of private transportation to most Americans, the National Forest System now is readily available to, and heavily used by, the general public. During the early 1960's, in recognition of the growing demands placed upon all National Forest resources and the general availability of recreation homesites on adjoining private lands, the Forest Service decided not to issue any new special-use permits for vacant lots previously identified as suitable for recreation residences.

Today the Forest Service administers 15,800 special-use permits which authorize use of individual sites for privately owned recreation residences. The length of the authorization varies, but generally extends for 20 years. Unless the site is needed for a higher public use, recreation residence permits, upon expiration, are renewed for additional use periods. Most of the recreation residences are within groups or tracts in the Forest. Although specific locations vary, the tracts typically are close to recreational attractions, such as streams and lakes.

Present Method of Determining Fees

As required in the permit, permittees pay annual "rental" fees for the privilege of using public lands for recreation residence purposes. In addition to fee provisions, the permits also set forth certain limitations and restrictions governing use of these sites such as:

—Restricting use to single-family recreation residence purposes;
—Prohibiting use of a recreation residence as a principal place of residence;
—Requiring approval for changes to the lot or structures;
—Complying with applicable laws, regulations, and ordinances;
—Protecting natural resources, scenic, and aesthetic values;
—Protecting public health, safety, and welfare;
—Recognizing the terminable nature of the permit.

Fees for these permits are calculated first by establishing the market value for the site as a recreation residence and then applying 5 percent to that value. The 5-percent rate is used to take into account the limitation and restrictions governing the use.

The fair market value approach to fees is mandated by the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a), Bureau of the Budget (now OMB) Circular No. A–25, and subsequent Bureau guidelines issued in 1964 in the Natural Resources User Charge Study. In enacting the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 (1976), Congress declared a National policy of receiving fair market value for the use of Federal lands and their resources unless otherwise provided for by statute.

The annual rental fee is reviewed and adjusted periodically. Although this generally has been accomplished at 5-year intervals, a few permit fees are now under a 10-year review cycle. Fee adjustments are based on professionally prepared appraisals using standard procedures recognized by the real estate appraisal profession.

To reduce the number of individual appraisals, the appraiser is allowed to group lots with the same or similar amenities and select a typical lot from a group for valuation. The appraiser estimates the value of the National Forest lot (unimproved raw land as originally offered to the permittee) by comparing the amenities accuring from the physical characteristics of the lot and its surroundings, including access, to actual sales in the private real estate market of similar lots which have a similar use.

Amount of Fees Collected

Established individual fees currently range from less than $100 to $2,700 with the average being less than $400. Approximately 85 percent of the fees are under $600 annually; 2.6 percent are $1,000 and above.

The higher fees (those in excess of $600) are primarily for sites located on lakes where private lots are also sold. These higher fees reflect the fact that water-oriented lots are very much in demand and sell or rent for premium prices in the private market.

Total fees collected for National Forest recreation residence use amounted to $3.9 million in 1980. By 1983, the collections had risen to approximately $5.5 million. These totals are less than the full amount due, because of stays of some fee increases during consideration of appeals of fee increases and a previous policy of phasing in fee increases.

Permittee Concerns

In the past 20 years, permittees in some locations have faced substantial increases in fees. In 1967, the House Subcommittee on Forests of the Committee on Agriculture held hearings to examine the large fee increases which arose during the early and mid-1960's. Out of these hearings, the Forest Service adopted policy changes which encouraged greater permittee participation in the appraisal process, a 3-year phase-in of fee increases, and the provision that at least 10 years advance notice of termination must be given when a site is needed for higher public purposes. Nevertheless, the number of appeals of fee increases under Forest Service administrative appeal procedures (36 CFR 211.18) has continued to rise.

In 1981, the Chief of the Forest Service, in consultation with the National Forest Recreation Association and others, completed a comprehensive review of key recreation residence policies, including the fee issue. Based on that review, the Forest Service adopted certain policy changes, including the provision for 10-year fee redetermination cycles and the use of the overall Consumer Price Index for All Urban Consumers (hereinafter referred to as CPI-U or Consumer Price Index) in making annual fee adjustments. Discontinued was the previous policy of phasing in fee increases over a 3-year period. The use of comparable private land rentals was identified as the preferred basis for fees.

These and other policies relating to recreation residence fees have been effectively suspended by Congressional action as part of the FY 1983 and 1984 Appropriations Acts for the Forest Service. Both Acts contain provisions which state:

> None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than the annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that fee has been in effect, to offset future fees owed to the Forest Service.

Under this provision, eligible recreation residences permittees have had their 1984 fees limited and reduced by credits. Approximately one-half of the permittees received credits exceeding $2 million. Some permittees received enough credit to effectively provide them use without charge for several years.

In addition, the House Committee Report (H. Rpt. No. 97–942) accompanying the FY 1983 Appropriations Act directed the Forest Service to review alternative fee approaches and to report its findings to the Congress. The Forest Service reported its findings on June 13 and November 10, 1983, which are reflected in this notice of proposed policy.

Discussion of Specific Issues and Concerns

Permittees appealing fee adjustments generally have been limited to those experiencing large fee increases.

The problem which as focused attention or recreation residence fees is the large periodic increases that have been occurring in some areas. Those increases, sometimes more than doubling fees paid during the previous 5-year period, have caused some permittees to question the fairness of the current system. It is a particular concern of permittees whose residences have

been in the family over a long period of time (up to 4 generations) and those who are on a fixed retirement income. Closely related to the fee question is the concern over tenure. Some permittees are concerned that their recreation residence use may be terminated, particularly those holding permits that expire within a few years. A discussion of the specific problems and concerns that have been expressed by permittees and others concerned with recreation residence fees follows:

(1) *Permittees assert that large fee increases at 5-year intervals adversely impact permittees.*

Recreation residence fees continue to increase, reflecting the rise in private land values. Those increases, together with other increased costs associated with owning and maintaining a summer home, have an adverse financial impact on many permittees. The impact from increased fees is particularly noticeable when the increases occur at the end of 5-year intervals. In response, the Forest Service, as previously noted, approved annual fee adjustments based on CPI–U changes and a 10-year fee redetermination cycle. However, only a few permit fees currently are under the new cycle with annual CPI–U adjustments.

Those recreation residence term permits that have been renewed or reissued since early 1982 contain an amended clause that allows the Forest Service discretion to implement changes in fee adjustment procedures. Amendment of the fee adjustment clause in other term permits would require permittee concurrence. Some permittees are unwilling to consent to the change, and express concern that annual cost of living adjustments under a longer cycle could cost more in total fees over the period than might be reflected otherwise with a flat fee under the current 5-year system.

(2) *There is a concern that increased fees will lead to only the wealthy being able to afford a recreation residence in the National Forests, and that permittees may not be able to sell their summer home due to increased fees.*

Forest Service review of sales of recreation residences on National Forest land consistently shows that permittees have been able to sell their improvements at fair prices. A direct relationship exists between the rental fee paid for use of a site and the price at which a summer home sells. When the fee actually reflects market rent (the going rate), the improvements generally sell at their actual value. When the fee is less than market rent, there is a positive leasehold value attributable to the low fee, which means that improvements (summer homes) can be sold at inflated prices. In this situation, buyers are willing to pay more for the building in order to obtain the lower rental fee.

Data collected on the sale of summer homes indicate that the selling price is often significantly higher than the appraised value of improvements. For example, an analysis of 66 recent sales of permitted summer homes is six Western States reveals that such residences sold for inflated prices, the excess amount of which averaged 20–45 percent of the selling price. As long as such leasehold values exist, it is reasonable to assume the fee is not excessive. Evidence indicates that some fees in the past have been lower than market rent. This raises the question of who should benefit from the leasehold value—the permittee or the public. In addition, Forest Service permittees in most states do not pay local real property taxes as required of recreation residence owners on private land. In some instances, private land taxes actually would exceed fees paid to the Forest Service.

The constantly rising prices at which recreation residences sell tend to limit those who are able to purchase and enjoy a vacation home. Often, recreation residences sell for 50,000 or more. In many instances, a lower rental fee would result in residences selling for higher prices, since prospective buyers would pay higher prices in anticipation of lower rental payments.

(3) *Some permittees contend that applying a percentage (5 percent) to the appraised value of the recreation residence site is a fallacious concept upon which to establish fees.*

Establishing annual fees based on a percentage of land value is a common means of determining rent in the private sector. National Forest land rentals, like rentals on private land, can be valued by analyzing data from the private market.

(4) *Some permittees believe the 5 percent rate is too high and does not reflect all the conditions of their permit. On the other hand, others (who are not permittees) believe 5 percent is too conservative and should be increased.*

The current 5-percent rate was adopted to provide an allowance for the various limitations and restrictions that the Forest Service imposes under terms of the permit. The 5-percent rate may not always reflect actual market conditions for rental of the land, as shown by sales where, in some cases, permittees realize leasehold values. The rate was adopted about 30 years ago when interest rates were much lower. Of the several private recreation residence leases of which the Forest Service has knowledge, the rental rates range from about 6 to 10 percent. These private leases, which generally contain fewer limitations or restriction than included in the Forest Service permit, tend to support the use of 5 percent.

Although 5 percent has been used to set fees, the actual return rate has been lower. This has been due to the fact that: (a) The appraisal upon which the new fee is based already was a year old when the fee became effective, (b) Phasing-in fee increases resulted in reduced fees during the first 2 years of the period, and, most importantly, (c) land values continued to increase while the values on which the fee is based remained constant during the 5-year period.

(5) *Increases in fees sometimes exceed the increase in land values during the 5-year period.*

In general, increases in fees have not exceeded the increase in land values. In a few cases, the fees appear to have increased more than the value of the land in the same period but, in fact, review of these cases shows that the earlier fees were based on incorrect appraisals which operated to the advantage of the permittees.

(6) *Classification of typical lots used in the appraisal process changes from one appraisal to the next.*

Rather than appraising each individual site, a typical lot from each tract usually will be appraised without regard for the minor differences between sites within that grouping. Once properly classified, a typical lot should not change from one appraisal to the next, unless a catastrophic event alters the character of a lot of a major change in market preferences related to site amenities occurs. However, individual appraisers have used their own judgment with a resulting change in the groupings which, in some cases, has caused fee differences between individual permittees.

(7) *Appraisals used as a basis for fee determinations are not always consistent.*

Appraisal of most recreation residence sites is a straightforward process which compares recent sales or rentals of lots in the private real estate market having similar amenities and utility comparable to that provided by the permitted National Forest lot. However, the Forest Service has identified several problems contributing to inconsistencies. Understanding the problems requires understanding of how the recreation residence sites originally were identified.

In most areas, Forest Officers identified individual building sites which were to be offered and developed for summer home use. Then, for administrative purposes, lot boundaries were located around the individual building sites. Little effort was made to provide each permittee with the same size lot. Often, ravines and other areas unsuitable for use were included in lots. The result was that adjacent permittees had lots with different dimensions. However, each site essentially had the same utility.

The main problem some appraisers have is that they tend to appraise the value of the lot rather than the value of the site for recreation residence use, or the value of that area effectively occupied and used by the permittee. Adjacent permittees should not have different fees simply because their lot descriptions yield areas of different size.

A difference in fees should be due to differences in the amenities provided by the sites, not a difference in size. Estimates of recreation residence land values should be based on a comparable lot in the private market which provides a similar utility. If recent sales or rentals do not provide exactly the same level of utility and amenities, the appraiser must adjust to recognize differences. Even though all the permits in a particular summer home group may identify sites having widths of over 150 feet, the market may indicate that 100-foot lots provide similar utility. Thus, comparable sales of this size should be used as a basis for the value estimate.

There also is a major concern relating to the consistency of appraisals of water-oriented lots. Few summer home permits actually include any water frontage. Those sites oriented on a lake or stream are actually set back from the shoreline. The intervening strip is not part of the permit area but is a public or common use area. These sites differ from the backlots only in being much closer to the water and having what are thought to be better amenities.

A similar situation exists in subdivisions on power reservoirs or subdivisions laid out to retain a strip of common-use land adjacent to a lake or stream. Private sales in these circumstances provide a good basis for establishing value. However, in many cases, appraisers are forced to utilize sales of lots with water frontage as a beginning basis for their estimate of value. Clearly, the "comparable" lot is often more valuable than the summer home site in this situation. However, individual appraisers in different parts of the country have made adjustments, without supporting data, in values ranging from 0 to 33 percent.

The administrative problems identified above can and will be corrected through a Service-wide training program. The Forest Service will clarify its appraisal direction to improve consistency through uniform application of procedures. In addition, the agency will, in consultation with the National Forest Recreation Association, identify and review certain existing recreation residence fees to ensure the fees properly reflect fair market value.

(8) *Some permittees question the large differences in recreation residence fees between different Regions and areas.*

Fees for use of recreation residence sites often vary from one locale to another because they are based on appraisals that reflect value differences from one market to another. Also, the 5-year fee reviews for permits at different areas often occur in different years, resulting in some fees being more current than others.

(9) *Some permittees believe a reduction in the fee should be made where weather-related access restrictions limit the available use of the recreation residence.*

The appraisal process used in determining the fair market value of a site takes into consideration any access restrictions, including those related to the climate. Ideally, comparable sales used in an appraisal should have access similar to the property being appraised. Where this is not the case, the sale transactions should be adjusted, as needed, to compensate for any value difference attributable to differences in access. Therefore, a fee based on land value already should reflect access limitations and no further adjustment is warranted when the appraisal is done properly.

(10) *Some permittees believe a fee at less than market rent is appropriate because of service they provide to the public or Forest Service.*

Recreation residence permittees often help police or clean National Forest lands outside their authorized use area, and perform other commendable public services. Similar services are performed by many other public-minded citizens who also live within and use the Forest, but do not hold recreation residence or other special-use permits authorizing specific privileges. The fee determination process adjusts those requirements imposed by the permit, including limitations or restrictions on the use but not for the services permittees perform voluntarily.

(11) *Some permittees believe that the increase in fees exceeds the increases in the cost of living.*

Since fees are based on a percentage of land value, there is no assurance that those values or resulting fees will not exceed the cost of living. In fact, values of some properties have increased more rapidly over the last 10 years than the cost of living. For example, a review of Forest Service land acquisition and exchange cases since 1970 reveals that properties in many areas have increased significantly more in value than would be indicated by the CPI. At the present time, there does not appear to be a significant disparity between CPI changes and increases in recreational land values.

(12) *There is a belief among some permittees that if more areas were opened for recreation residences, demand would drop and fees would be lower.*

If new recreation residence sites were opened on a broad scale nationally, some drop in demand might occur and concomitant reduction in fees might result. However, opening new sites for recreational residence use on such a scale would be contrary to the policy of maximizing public uses of National Forest resources since it would devote more National Forest land for private use. In some areas, this also could create competition with the private sector offering similar uses.

If new sites were opened on a limited scale for recreation residence use, it would not appreciably affect market prices. In most parts of the country, there are ample opportunities to acquire private lands for construction of summer homes. In a 7-year period from 1968–1975, approximately 9 million lots were subdivided for recreational use within the United States. An annual housing survey issued by the Bureau of Census in 1976 showed that some 2.6 million second homes had been constructed. The 15,800 or so summer homes on National Forest land represent a very small part of the second home market.

(13) *Many permittees feel the Forest Service administrative appeal process is too expensive and non-productive.*

The regulations governing the appeals process (36 CFR 211.18) were revised in 1983 to streamline and clarify the procedure. The Forest Service recognizes that even the revised appeals process can be expensive, time consuming, and aggravating. However, despite reviews and studies, no better way to resolve disputes or disagreements has emerged. The process provides thorough administrative review of decisions at different levels, thereby assuring the opportunity to correct mistakes or change decisions without the expense to appellants and the Government of going to Court. Judicial remedy also is available.

(14) *Permittees fear their use will be terminated.*

Permittees receive at least a 10-year advance notice in the event a site is needed for higher public purposes. The need must be documented and all alternatives fully considered in a Forest Plan or a specific future-use study report. Despite this procedure and the expectation that few permitted sites will be needed for public use in the foreseeable future, some permittees remain concerned over their continued occupancy. There is little that the Forest Service can do to alleviate this anxiety except to explain this situation and make certain that new permittees are fully informed that this special use has a definite expiration date and that renewal is subject to future land-use decisions arrived at through an open planning process.

Administrative Costs

There is substantial administrative cost involved in administering the summer home program, much of which is attributable to appraisals and other work related to 5-year fee redeterminations. Processing appeals from fee adjustment decisions also is costly. In 1982, the Reginal Foresters processed 102 fee appeal cases. Of those cases, approximately 15 appellants continued to appeal to the Chief of the Forest Service for further consideration.

Alternative Fee Approaches

As part of the review of permittee concerns and recreation residence fees, the Forest Service and others identified 17 alternative fee approaches, some of which would require enabling legislation, briefly summarized as follows:

Alternative 1—Continue with the fee system used in the past.

Alternative 2—Remove all restrictions on the subleasing of improvements.

Alternative 3—Open vacant lots within existing recreation residence tracts to bids; use the bids as the basis for determining base fees; then go immediately to annual indexing.

Alternative 4—Change the rights and obligations under special-use authorizations for summer home use. If the permittee has fewer rights and/or more obligations, the value of the use goes down and fees would be reduced accordingly.

Alternative 5—At the time of sale or permit reissuance to the current or new owner, estimate the difference between actual improvement value and the amount at which the summer home sells. If the purchase price is more than the appraised value, assess a one-time surcharge fee.

Alternative 6—Limit the fee increases for any 1 year to a 50-percent increase over the preceding year's fee.

Alternative 7—Defer fee increases.

Alternative 8—Calculate fees based on the average cost to administer the permit, plus 2½ percent of the appraised value of the site.

Alternative 9—Adjust recreation residence fees by applying the Consumer Price Index (CPI) to the next to last established fee. However, no fee would be adjusted to an amount less than the last fee for the site. Using the newly established fee, continue with annual indexing until the permit expires. An appraisal would then be used to redetermine the base fee to which indexing would be applied for the next 10 years.

Alternative 10—Charge 5 percent of the appraised value of the site for the first $30,000 value, 4 percent for the next $30,000 value, and 3 percent for any value over $60,000.

Alternative 11—Adopt the proposal by the Homeowners' Division of the National Forest Recreation Association. Basically, the proposal calls for:

(1) Establishing permanent site classifications for each permit based upon major factors considered in most market appraisal approaches,

(2) Determining average cost of administering recreation residence permits (excluding appraisal and appeal costs),

(3) Establishing base fees by either doubling the administative cost, or by multiplying the administrative cost by the applicable site classification factor (assigned to range from 1 to 12), and

(4) Annually adjusting the base fee based on changes in an index (perhaps CPI–U).

Alternative 12—As a means of establishing the fair market rental values of sites in a particular area, the United States could purchase a recreation residence when offered for sale. In turn, the Forest Service would offer to sell the improvements at the appraised value to the person bidding the highest annual rental fee.

Alternative 13—Dispose of recreation residence tracts.

Alternative 14—Establish Servicewide fee schedules that would dictate common fees for sites by category. Then, update the fee schedules annually by applying the CPI.

Alternative 15—Establish a maximum recreation residence fee of $3,000 and a minimum fee of $250, or some other arbitrary upper and lower limits. Adjust the maximum and minimum annually based on changes in the overall CPI-U.

Alternative 16—Adopt the fee system outlined in H.R. 173, a bill "To establish fees for recreation residences on National Forest System lands." The bill would establish a system whereby fees would be based on a percentage of the residence (improvement) value, rather than on a percentage of the land value.

Alternative 17—Contract entire fee determination activity; provide for binding arbitration as an alternative to administrative appeal.

Public Participation in Formulation of Proposed Policy

During its review of recreation residence fee procedures, the Forest Service consulted with recreation residence permittees, permittee associations, representatives of the Homeowners Division (Homeowners) of the National Forest Recreation Assocation (NFRA), the National Inholders Association (NIA), the National Association of Counties (NACO) and others.

In July and August of 1983, the Forest Service held two meetings with representatives of the Homeowners, NIA, and NACO. At those meetings, several alternative proposals were discussed. An alternative proposed by the representatives of the NFRA Homeowners Division and the NIA was made to establish a base fee for 1984 by increasing the next to last fee by 50 percent (as described in Senate Amendment 100 to the 1983 Interior Appropriations Act) and continue indefinitely with annual Consumer Price Index (CPI) adjustments. Other alternatives discussed would establish the base fee level by applying the cumulative CPI to either the fee established during the 1973–1977 period (next to last fee) or the fee established during the 1978–1982 period (last established fee). The participants were advised that the Forest Service could not overlook fees established from the last appraisal, and the periodic fee redeterminations would be necessary to comply with the fair market value requirement.

Moreover, if base fee levels were determined by aplying the cumulative CPI to the next to last fee, many summer home permittees would receive fee increases as changes in land values for those permittees have not increased as rapidly as changes in the cost of living over the last 10 years. For other permittees, fees would be decreases. The Forest Service concludes that a fee determined from the most recent appraisal (effective starting in the 1978–1982 period) should provide a fair base from which to start CPI adjustments, as it is reflective of the most current data available.

Proposed Changes/Actions

Following much review and consultation with permitees and permittee representatives and consideration of their concerns, the Forest Service proposes to adopt certain changes in recreation residence fee procedures as described below:

(1) Adopt a 20-year fee review cycle.

(2) Use the fees established in the 1978–1982 period (most recent appraisal) as the base.

(3) As needed, adjust term permits (those issued under the Act of March 4, 1915, 16 U.S.C. 497) immediately with the concurrence of the permittee, or upon reissuance of the authorization, to provide for annual indexing. Other recreation residence permits (those issued on an annual basis under the Act of June 4, 1897, 16 U.S.C. 551) would be made subject to annual indexing, starting in 1985.

(4) In 1985, adjust all base fees established in 1978, 1979, and 1980 (those due for a 5-year adjustment in 1983, 1984, and 1985, respectively) by applying the cumulative (compounded) CPI–U change. Fees established in 1981 and 1982 would be adjusted in 1986 and 1987, respectively, unless a provision in the special-use permit allows adjustment at an earlier date.

The annual CPI–U factor to be applied is dependent upon the index change that occurs from year to year and would be based on the index reported for the month of June. The CPI–U adjustments would start with the second year of the fee cycle. For a permit on which a base fee of $200 was established in 1978, the first fee adjustment under this proposal would equal $327 times the CPI–U factor derived from the overall index for June 1984. The table below illustrates how this fee is calculated:

Year	CPI–U factor	Fee
1978 (base year)		[1]$200
1979	.074	215
1980	.109	238
1981	.143	272
1982	.096	298
1983	.071	319
1984	.026	327
1985	([2])	([3])

[1] Base fee.
[2] Not yet available.
[3] $327 × CPI–U factor equals adjustment.

Affected permittees can quickly calculate the adjusted fees that they would pay in 1985 by applying the relevant CPI–U factors shown above.

(5) Continue thereafter with annual CPI–U adjustments for the remainder of the 20-year cycle. Where annual adjustments cannot be made under terms of an authorization (term permit), fees would be adjusted with cumulative CPI–U changes at scheduled 5-year intervals as provided in the special-use permit until amended, reissued, or renewed.

(6) Limit CPI–U adjustments in any one year to a maximum of 10 percent. If the CPI–U charge exceeds 10 percent, the excess amount (in fee dollars) will be deferred until the following year or until the CPI–U drops below the 10 percent level to allow the increase or decrease.

(7) Whenever a recreation residence permit is issued to a new owner after the midpoint in the cycle, that is after 10 years, reevaluate the fee based on current market data. If the reevaluation indicates that a fee adjustment is needed, the permittee selling the improvements would be required to pay the cost of the appraisal or valuation.

(8) Redetermine fair market value based fees by either: (1) Using comparable land rentals when sufficient data exists: (2) applying a percentage to the fair market value of the site; or (3) applying the percentage of change in land or rental value over the period to the base fee.

(9) Resolve outstanding appeals of fee adjustments in accordance with the merits of each case and within the framework of the proposed changes.

(10) For those permits for which a recreation residence fee was either established outside the 1978-1982 period or not established at all, determine the fee for 1985 by applying the cumulative CPI-U to a fee based on 5-percent of the 1982 land value. One example of this situation would be an area where the permittee received a recreation residence permit for the first time in 1983 or later, the residence having been included formerly as part of a club permit.

(11) Renew expiring recreation residence permits for a 20-year term provided no higher public need for the recreation residence tract is identified in a Forest Land Management Plan or amendment.

(12) Encourage land exchanges involving recreation residence tracts in areas where there is no foreseeable future public need for the land, or where the private land to be acquired can provide equally for public need. Deed restrictions might be required in some situations to ensure continuation of recreation residence use under private ownership in a manner compatible with adjoining National Forest uses.

The above procedures would result in significantly lower administrative costs and fee levels that should be fair and equitable to both the permittee and the public. Under a 20-year fee redetermination cycle, the permittee would be able to better anticipate his/her actual rental costs for and during the period. The impact from large fee increases at periodic intervals would be reduced significantly. Also, a prospective permittee would have a better basis from which to decide on whether to purchase the imporvements from the existing permittee.

These changes in fee determination procedures are based on retaining fair market value as the basis for recreation residence fees. However, application of the procedures described under Items No. 6 and No. 7 (above) would require a change in the Department of Agriculture's regulations for National Forest System land rental fees for special uses (36 CFR 251.57).

The current regulations, last revised in 1980 after significant public involvement, provide for a fee based upon the fair market value of the rights and privileges authorized. Simply stated, this means the United States (public) should receive about the same rent for the private use of its lands as a private landowner receives for rental of comparable lands under similar lease terms and conditions.

The concept of fair market value is basic in real estate transactions and this is reflected in current statutes. Under the valuation principle of substitution, a fee is fair and equitable to the permittee if it approximates the cost of leasing land with similar utility in the private market. Of course, appropriate adjustments are needed to recognize the difference between a permit on National Forest land and a private land lease.

Indexing of fees based on the CPI index is acceptable to some permittees. However, because CPI measures many items besides land values, there is not a direct relationship between CPI and land values. One may be going up while the other is going down. Concern about fees largely has stemmed from those situations where during the past few years, land values have increased at a rate greater than the CPI. The approximate effect of the recreation residence fee provision in the FY 1983 Appropriations Act for Interior and Related Agencies has been to provide a credit to those permittees where increases since 1973 exceeded CPI. For calendar year 1984, recreation residence permittees have been billed at a rate which does not exceed a 50-percent increase over their next-to-last fee. In addition, those rates have been further reduced by application of credits from earlier fees paid by the permittee

In those situations where land values have exceeded the CPI increase, there are two problems:

(1) As a legal matter, the Forest Service does not have authority to overlook the fees established in accordance with regulations during the 1978–1982 period (generally those fees based on the last appraisal). Those fees provide evidence of record that must be used until they are adjusted based on a new appraisal of fair market value.

(2) As indicated earlier, any significant reduction in fees below fair market value results in accrual of a leasehold value to the improvement, which at the time of sale is capitalized as part of the selling price.

As long as provision is made for adjustment at a later date to correlate CPI indexed fees with fair market value fees, the Forest Service is not significantly concerned with the base year on which indexing is started. If, however, indexing is started with a fee which does not approximate fair market value, then the difference will be carried forward and the future adjustment will be more significant. Such a system only will postpone the current problem of large increases at one time.

Similarly, the Forest Service is concerned that, since there is little relationship betweeen the CPI and land values, failure to provide for an adjustment at a future date eventually could result in a significant disparity between fees based on market values and fees based solely on CPI adjustments. Furthermore, the disparity could be to the disadvantage of the public in one section of the country and to the disadvantage of the permittees in another. Thus, scheduled adjustments are necessary and in the best interests of both the public and the permittees.

In many cases, there appears no reasonable expectation that National Forest lands occupied by recreation residences will be needed in the foreseeable future for higher public use. Where this situation exists, the public might be better served if the recreation residence tracts were conveyed into private ownership through the land exchange process. This is particularly true in areas intermingled with private land or developments.

Request for Public Comment

Public comment on the proposal outlined above is invited. Comments will be reviewed and considered in the development of final policy, which will be issued through the Forest Service Manual after the final policy is published in the **Federal Register**.

R. Max Peterson,

Chief.

May 18, 1984.

[FR Doc. 84–13831 Filed 5–22–84; 8:45 am]

BILLING GODE 3410–11–M

Soil Conservation Service

Elk Creek Critical Area Treatment RC&D Measure, Texas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture gives notice that an environmental impact statement is not being prepared for the Elk Creek Critical Area Treatment RC&D Measure, Hemphill County, Texas.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76501–7682, telephone 817–774–1214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on 49 eroded areas in central Hemphill County. Planned works of improvements include installing grade stabilization structures, constructing diversion terraces above eroded areas, shaping eroded areas, vegetating treated areas, and fencing areas where needed to protect vegetation. This will involve 87 acres of rangeland, and 96 acres of gullied land.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resources Conservation and Development Program. Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 14, 1984.

Billy C. Griffin,

State Conservationist.

[FR Doc. 84–13764 Filed 5–22–84; 8:45 am]

BILLING CODE 3410–16–M

Pushmataha Conservation District Landowners RC&D Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pushmataha Conservation District Landowners RC&D Measure, Pushmataha County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma, 74074, telephone (405) 624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure will eliminate erosion, sediment inflow into streams, and visual blight and degradation of aesthetic qualities. Structural measures consist of permanent fencing to exclude livestock. Vegetative and mechanical measures consist of filling and shaping gullies,

bermudagrass sprigging and mulch sodding, tree planting, temporary vegetative cover, and fertilizing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 14, 1984.

Donald R. Vandersypen,

Assistant State Conservationist (WR).

[FR Doc. 84-13765 Filed 5-22-84; 8:45 am]

BILLING CODE 3410-16-M

Madison County Board of Education; Critical Area Treatment RC&D Measure, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 FR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Madison County Board of Education Critical Area Treatment Measure, Madison County, Georgia.

FOR FURTHER INFORMATION CONTACT: B. C. Graham, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, Federal Building, Box 13, Athens, Georgia 30601, telephone: 404-546-2217.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, B. C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objective of the sponsors is to stabilize sediment producing areas on 7 school grounds within the county. The planned works of improvement consist of establishing permanent vegetation on a total of 14 acres.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting B. C. Graham.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 16, 1984.

B. C. Graham,

State Conservationist.

[FR Doc. 84-13806 Filed 5-22-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before June 12, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00019."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596-10604 (March 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see

"Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulation and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Kerex, Inc. c/o Thomas J. Smith, Donelson, Stokes & Bartholomew, First American Center, Twenty-third Floor, Nashville, Tennessee 37238, Telephone: 615–254–1961 or 615–256–2742
Application No.: 84–00019
Date Received: May 2, 1984
Date Deemed Submitted: May 8, 1984

Members in Addition to Applicant: Aladdin Energy Products, Inc., a subsidiary of Aladdin Industries, Inc., Nashville, TN; AMCA International (Consumer Products Division), Bowling Green, KY; Crestline Industries, Raritan, NJ; GLO International Corp., a subsidiary of Rival Mfg. Co., Kansas City, MO; Kupanoff, & Associates, Inc. a subsidiary of Drew National Corp., White Plains, N.Y.; Panasonic Industrial Co., a subsidiary of Matsushita Electric Industrial Co., Ltd., Osaka, Japan; Robeson Industries Corporation, Mineola, NY; Sanyo Electric, Inc., Little Ferry, NJ; Teknika Electronics Corp., a subsidiary of C. Itoh America Inc., New York, NY; Toyotomi America, Inc., a subsidiary of Toyotomi Kogyo Co., Ltd., Nagoya, Japan; and Turco Manufacturing Company, DuQuoin, IL.

Summary of the Application

A. *Export Trade*

As a newly-formed Delaware Corporation, Kerex, Inc. intends to export new-generation portable kerosene heaters on a worldwide basis. Kerex will act as an export agent for its member distributors of these products which are currently imported from Japan and marketed throughout the United States. In its conduct as an export facilitator, the applicant may provide or offer the following export trade services: Consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange and financing.

B. *Export Trade Activities and Methods of Operations*

On behalf of its members, Kerex will set purchase and sale prices for exports. Export sales may be handled by Kerex itself or by exclusive or non-exclusive agreements with export intermediaries. Kerex may allocate export orders among its members through a rotating bid system or some other procedure and may enter into exclusive supply agreements with its member firms that prohibit them from exporting independently of Kerex, either directly or indirectly through other intermediaries. Kerex may enforce exclusive agreements using mechanisms such as passover commissions or termination clauses. Kerex may also enter into agreements with its members, with non-member suppliers or with export intermediaries, to determine territories and customers for export sales. Kerex may also act as a purchasing agent for buyers in the export markets on an exclusive or nonexclusive basis. Kerex and its members may also agree on the conditions for admission of new members and on the conditions for withdrawal from membership.

As an additional method of operation, the applicant and its members may discuss with each other specific information relevant to the export sale of new-generation portable kerosene heaters. This exchange of information could include supply and demand conditions in any particular export market; product prices in a market; data on U.S. domestic prices that is authored for publication by third parties; costs specific to the sale of products in a particular market; inventories of products in the possession of any member, other supplier or customer; identification of customers in any export market and information about transactions with those customers; currency exchange rates, tariffs, taxes, dumping and other regulations affecting export sales; and general economic or business conditions in a particular export market.

Dated: May 17, 1984.

Irving P. Margulies,

General Counsel.

[FR Doc. 84–13803 Filed 5–22–84; 8:45 am]

BILLING CODE 3510–DR–M

Yale University Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84–44. Applicant: Yale University, New Haven, CT 06511. Instrument: Microacalorimeter, Model DASM–4. Manufacturer: USSR Academy of Sciences, USSR. Intended use: See notice at 49 FR 3236.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign article is capable of handling large (0.5 ml) samples, provides a temperature range from 0.5° to 130°C, accuracy and sensitivity and varying scan rates unmatched by comparable domestically manufactured instruments. The National Institutes of Health advises in its memorandum dated April 2, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director Statutory Import Programs Staff.

[FR Doc. 84-13811 Filed 5-22-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Availability of 1984 Final Action Plan on Dall's Porpoise

Pursuant to section 14(b)(2) of the North Pacific Fisheries Act of 1954 as amended (16 U.S.C. 1021 *et seq.*), the National Marine Fisheries Service has released to the general public its Final Action Plan for Dall's Porpoise for 1984. The Plan describes research studies conducted in Dall's porpoise, research plans for 1984, and management measures taken to reduce the incidental take of this species in the Japanese high seas salmon fishery.

Copies of this report are available from the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: May 10, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-13748 Filed 5-22-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Fisheries Advisory Committee

Notice of Meeting that is Partially Closed to the Public.

AGENCY: National Marine Fisheries Service, NOAA.

Time and date: The meeting will convene June 5, 1984, at 1:00 p.m. and adjourn at approximately 4:30 p.m. on June 6, 1984.

Place: The meeting will be held at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C.

Status: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for living marine resources and on means to facilitate cooperation between public and private interests in these matters.

Matters to be considered:

Portions open to the public:

June 5, 1984 (1:00 to 5:30 p.m.). Future of Fisheries Panel presentations to include: (a) Marketing Outlook; (b) Aquacultural Contributions to U.S. Fisheries; (c) Sport Fishing Outlook; (d) Fishery Management—State and National Perspectives; (e) Global Outlook; and (f) Future Fishing Strategies.

June 6, 1984 (8:30 a.m. to 3:30 p.m.). (a) NOAA Five-Year Plan; (b) Future of Shrimp Industry; (c) First World Angling Conference; and (d) subcommittee reports.

Portion closed to the public:

June 6, 1984 (3:30 to 4:30 p.m.). Consider and discuss the living marine resource proposals of the NOAA fiscal year 1986 budget.

SUPPLEMENTARY INFORMATION: The Acting Assistant Secretary of Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on May 16, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item to be covered during the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the item will be concerned with matters that are within the purview of 5 U.S.C. Section 552b(c)(9)(B) as information the premature disclosure of which will be likely to significantly frustrate the implementation of proposed agency action. (A copy of the determination is available for public inspection and duplication in the Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.) All other portions of the meeting will be open to the public.

For further information or copies of minutes contact: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, NOAA, Washington, D.C. 20235. Telephone: (202) 634-9563.

Dated: May 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-13801 Filed 5-22-84; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, National Technical Information service, U.S. Department of Commerce.

Department of Agriculture

SN 6-441,198 (4,440,305)
Carriage for Cable Logging System

SN 6-586,618
Process to Produce Durable Press Low Formaldehyde Release Cellulosic Textiles

Department of Health & Human Services

SN 6-350,223 (4,440,747)
Monoclonal Antibody-Ricin Hybrids as a Treatment of Murine Graft-Versus-Host Disease

Department of the Air Force

SN 6-237,257 (4,439,767)
Lightwight Optical Jammer System

SN 6-264,930 (4,437,710)
Inflatable, Inert Gas-Purged, Welding Chamber

SN 6-265,865 (4,438,395)
Current Transformer High Voltage Probe Utilizing Copper Sulfate Water Resistor

SN 6-286,818 (4,436,437)
High Energy Single Pulse Laser Calorimeter

SN 6-300,763 (4,435,810)
Self-Supporting Laser Diffuser Flow Energizer

SN 6-332,785 (4,436,260)
Optical Scanner for Use in Confined Areas

SN 6-332,894 (4,437,113)
Anti-Flutter Apparatus for Head Mounted Visual Display

SN 6-333,217 (4,437,748)

High Illumination Flashbulb Array with Firing Sequence Control Means
SN 6-437,384 (4,437,073)
Equalizer Cavity with Independent Amplitude Control
SN 6-370,693 (4,436,262)
Windblast Head Protector for Use During Pilot Ejection From an Aircraft
SN 6-375,642 (4,439,399)
Quaternary Alloy
SN 6-393,266 (4,436,220)
Hermetic Package Using Membrane Seal
SN 6-418,116 (4,438,007)
Perfluorinated Aliphatic Polyalkylether Lubricant with an Additive Composed of an Aromatic Phosphine Substituted with Perfluoroalkylether Groups
SN 6-431,496 (4,438,182)
Method of Determining Battery Life
SN 6-463,192 (4,436,886)
2-Phenylbenzothiazole Polymers
SN 6-465,942 (4,437,080)
Method and Apparatus Utilizing Crystalline Compound Superconducting Elements Having Extended Strain Operating Range Capabilities without Critical Current Degradation
SN 6-468,628 (4,437,544)
Service Platform for a Ladder
SN 6-618,291 (4,439,769)
Combined Adaptive Sidelobe Canceller and Frequency Filter System

Department of the Army

SN 6-575,613
Furnace for Vertical Solidification of Melt
SN 6-588,612
Monolithic Planar Doped Barrier Subharmonic Mixer
SN 6-596,966
Multiple Gap Optically Activated Switch
SN 6-597,305
Sampling and Recording Dose Rate Meter

[FR Doc. 84-13810 Filed 5-22-84; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Proposed Rule Amendments Relating to Establishment of a Mutual Offset System With the Singapore International Monetary Exchange, Ltd.; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of extention of comment period.

SUMMARY: On April 20, 1984, the Commodity Futures Trading Commisson ("Commission") published in the **Federal Register** a notice of proposed contract market rule changes which have been submitted by the Chicago Mercantile Exchange ("CME") and which are intended to implement a mutual offset system with the Singapore International Monetary Exhcange Ltd. ("SIMEX"). 49 FR 16827. The comment period on the proposed rule changes is currently scheduled to expire on May 21, 1984.

The Commission solicited comments on the proposed rule amendments in order to facilitate its consideration of the CME proposal even though CME's submission under section 5a(12) of the Commodity Exchange Act ("Act") was not yet complete in the absense of an executed agreement between the CME and SIMEX. The Commission's decision to solicit public comments in the absence of an inter-exchange agreement was based on certain representations of CME regarding the expected content of its final agreement with SIMEX. The CME has not yet provided the Commission with a copy of the final executed contract.*

By letter dated May 10, 1984, the New York Mercantile Exchange ("NYMEX") requested that the Commission extend the comment period in order to allow NYMEX an adequate opportunity to obtain and review the materials which were subject to the petitions for confidential treatment filed by or on behalf of the CME and to review the executed agreement between the CME and SIMEX. NYMEX argues that the absence of a final executed contract makes the information available to the public incomplete and hampers informed public comment. NYMEX further argues that the CME's requests for confidential treatment further impede the public comment process, and that, absent an extension of time, the current comment period is likely to expire prior to a Commission determination on all of CME's petitions and on NYMEX's Freedom of Information Act request for the material that was being withheld pending the disposition of CME's petitions.

The Commission believes that this argument has merit and has, therefore, determined to extend the comment period for 30 days after the later of the date upon which all of the petitions for confidentiality submitted by or on behalf of the CME with respect to the aforesaid section 5a(12) submission have been acted upon or the submission has been completed by the filing of an executed agreement between the CME and SIMEX.

DATE: The comment period will extend for 30 days from the date on which a final determination has been made with respect to all petitions for confidential treatment or the submission has been completed. The Commission will issue another **Federal Register** notice at that time setting forth specifically the date on which the comment period will finally expire.

ADDRESS: Interested persons should submit comments to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Patricia Cooper, Attorney-Advisor, Division of Trading and Markets, at the above address. Telephone: (202) 254-8955.

Issued in Washington, D.C. on May 18, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-13833 Filed 5-22-84; 8:45 am]
BILLING CODE 6351-01-M

*At the time of the publication of the April 20, 1984 **Federal Register** notice, CME has already agreed to toll the 180-day review period specified in section 5a(12) of the Act if the executed agreement was not filed with the Commission on or before May 15, 1984. CME had also agreed to toll the 180-day period if the period for public comment was extended due to the inability of commentors to review and comment upon materials which were subject to the various petitions for confidential treatment which have been filed by the CME. (Those materials include, *inter alia*, a description of the contract between CME and SIMEX and a description of certain anticipated contract provisions.)

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 14 June 1984 at Palisades Institute for Research Service, Inc. 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with

industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 1 § 10(d), (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552d(b)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: May 18, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–13780 Filed 5–22–84; 8:45 am]

BILLING CODE 3810–01–M

DOD Intent To Establish a Software Engineering Institute

The Office of the Under Secretary of Defense Research and Engineering, after examining all existing organizational alternatives, has decided to establish a Federally Funded Research and Development Center (FFRDC) to be named the DoD Software Engineering Institute (SEI). This announcement is not a synopsis in accordance with Pub. L. 98–72 or otherwise a synopsis of sources sought in connection with a procurement. It is published consistent with para 6b(2) of the Office of Federal Procurement Policy draft policy letters on FFRDCs, which provides for at least three notices over a 90-day period in the Commerce Business Daily and the **Federal Register** indicating intention to sponsor an FFRDC and the scope and nature of the effort to be performed by the FFRDC. This is the third in the series of three notices. The mission of the SEI is to accelerate the transition of emerging or advanced computer software technology into use in the development and maintenance of DoD weapons systems. The ultimate objective is to reduce the labor intensiveness of developing and evolving military applications software such that the DoD can continue to serve a growing demand for sophisticated software systems in a manner which is both efficient and affordable. The scope and nature of the effort to be performed by the SEI are as follows: (1) identifying and assessing the suitability of existing and potential software technologies from all available sources for use in the development and maintenance of software-intensive defense systems. (2) Developing the concept and architecture of an automated software "factory" (i.e., the engineering environment, tools, methods, and techniques supporting software development and maintenance) employing a coherent and integrated system of computerized software tools and reusable software parts as building blocks. (3) Acquiring and engineering high payoff software development and support tools and methods to mission-critical production standards for use in the "factory". (4) Designing a fully consistent set of interface specifications to enable integration of these engineered tools and methods and to facilitate industry extensions and additions to the software "factory". (5) Demonstrating and maintaining a model software "factory" containing these high payoff tools, methods and interface standards, which will be the showcase for the state of the art in software engineering excellance. (6) Disseminating engineered software tools and methods throughout the DoD mission-critical software community. (7) Supporting the military services and other DoD components in software engineering matters. (8) Educating in support of software technology insertion into DoD weapons systems. (9) Performing goal-directed research in support of software technology transition into DoD weapons systems. The SEI will endeavor to bring together the best professional minds in the area of software systems engineering and technology to address these tasks. A competitive procurement is envisioned for the establishment of the SEI. A Synopsis of Sources Sought, was published on 1 May 1984 in the Commerce Business Daily by the Directorate of FCRC Support of the Air Force Electronic Systems Division, Hanscom AFB, MA.

Dated: May 18, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 84–13779 Filed 5–22–84; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Privacy Act of 1974; Addition

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Addition to Air Force Systems of Records Notices.

SUMMARY: The Air Force is adding 1 system of records notices.

EFFECTIVE DATE: The addition will be effective on June 22, 1984, unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C., telephone: 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a [Pub. L. 93–579; 44 Stat. 1896 *et seq.*] has been published in the **Federal Register** as follows: FR Doc. 82–30348 (47 FR 50004) November 4, 1982; FR Doc. 83–1956 (48 FR 4106) January 28, 1983; FR Doc. 84–15 (49 FR 702) January 5, 1984.

This addition does not require an altered system report as required by 5 U.S.C. 552a(o) since it replaces a notice formerly published by the Office of Personnel Management (OPM) as OPM/GOVT–2.

Dated: May 18, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

F040 AF MP J

SYSTEM NAME:

Civilian Appeal and Grievance System.

SYSTEM LOCATION:

At Consolidated Civilian Personnel Offices (CCPO); official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices; at Air Force Civilian Appellate Review Agency (AFCARA), Bolling AFB, Washington, DC 20332 and AFCARA/AED, San Antonio, Texas 78293.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizen employees of the Air Force who are paid from appropriated funds and who are either nonbargaining unit employees or bargaining unit employees in a unit where no collective bargaining agreement has been negotiated. The system includes supervisors, civilian personnel officers, and other management officials of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents pertaining to the appeal or grievance filed by an employee or employee's representative.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, Code of Federal Regulations, Part 771.

PURPOSE:

Appeal and grievance files are maintained by the CCPO pending administrative proceedings by

management to resolve the matters in dispute including adjudication proceedings by AFCARA Examiners and final Air Force decision by management officials authorized to act under current regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after case is closed. Selected documents may be retained in policy/precedent files.

SYSTEM MANAGER(S) AND ADDRESS:

Directorate of Civilian Personnel Employee Relations Divison (HQ USAF/MPKE), The Pentagon, Washington, DC 20330 or comparable official of the Civilian Personnel Office serving the Air Force activity/installation.

NOTIFICATION PROCEDURE:

Requests should be addressed to the sevicing CCPO of the appropriate Air Force activity/installation. Addresses are in the Department of Defense directory in the appendix to the Air Force system notices.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager and are published in Air Force Regulation 12–35 (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Sources include documentation created by the servicing civilian personnel officer, information provided by the individual or representative, reports completed after formal hearings/inquiries, hearing proceedings and legal documentation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–13778 Filed 5–22–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Coastal Engineering Research Board; Meeting

In accordance with sec. 10. (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of a meeting of the Coastal Engineering Research Board:

The meeting will be held at the Seattle Hilton, Sixth and University, Seattle, Washington from 8:30 a.m. to 4:40 p.m. on June 5, from 8:30 a.m. to 5:00 p.m. on June 6, and from 8:00 a.m. to 11:15 a.m. on June 7, 1984.

The June 5 session will include a review of CERB business, and presentations on the Presque Isle Offshore Breakwaters, Coast of California Storm and Tidal Waves Study, Regional Numerical Modeling of Coastal Processes, Directional Spectral Wave Generator, Pacific Coast Wave Information Study, Measurement of Forces in Dolos Armor Units, and an overview of interesting coastal projects in Seattle and Portland Districts of North Pacific Division.

June 6 will be devoted to a field trip flight for Board members to Chittenden Locks, the floating bridge at Hood Canal, Friday Harbor, several projects on the way to the Port Commission at Grays Harbor, and the Trident Naval Base. A bus tour for other participants will make stops at Chittenden Locks, the floating bridge and a floating breakwater. Both tours will return to Seattle by ferry. The bus tour will serve as a foul weather backup plan for the charter flight.

The morning of June 7 will include a discussion of the field inspections, presentations on the Alaska District projects, and closing remarks.

Participation by the public is scheduled for 8:30 a.m. on June 7. Members of the public may attend the field inspection but must provide their own transportation.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangement for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

3. Inquiries and notice of intent to attend the meeting may be addressed to Colonel Tilford C. Creel, Executive Secretary, Coastal Engineering Research Board, Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 84–13960 Filed 5–22–84; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: June 18–20, 1984, 9:00 a.m. to 5:00 p.m.

ADDRESS: The Hotel Washington, 15th & Pennsylvania Ave., NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004, 202/376–8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress

together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Oath of Office Ceremony
Secretary's Literacy Initiative
Committee Reports
Review of Council's Literacy Report
Election of Council Officers

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on May 18, 1984.

Rick Ventura,

Executive Director.

[FR Doc. 84-13804 Filed 5-22-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant Progressive Technological Coating, Inc. of Friendswood, Texas, an exclusive license to practice in the United States the invention described in U.S. Patent No. 4,265,982, entitled "Coated Woven Materials and Method of Preparation." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to practice the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C. on this 16th day of May 1984.

Theodore J. Garrish,

General Counsel.

[FR Doc. 84-13753 Filed 5-22-84; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for Fossil Energy

Liquefied Gaseous Fuels Spill Test Facility

In accordance with Congressional action on the Continuing Resolution (Pub. L. 97-377) the Department of Engery (DOE), in support of the Fossil Energy Liquefied Gaseous Fuels Spill Test Program, is setting forth this notice that it is preparing to construct a unique spill test facility where tests could be performed on hazardous chemicals and liquefied gaseous fuels. The facility will be made available for testing on a user-fee basis. This will allow users and suppliers of these materials and other interested parties to develop a technical data base of safety-related information. A site has been selected for this facility (the U.S. Department of Energy's Nevada Test Site) and preparations for a detailed design are underway. As part of this preparation, a Preliminary Facility Design Description has been prepared.

It is intended that the facility be of generic design, capable of spilling large volumes of several types (e.g., cryogenic, isothermal, aerosol-forming, and chemically-reactive) of hazardous materials at high rates onto diferent surfaces and under varying conditions. In conjunction with this notice and a press release, the DOE is circulating the Preliminary Facility Design Description among organizations which have expressed an interest in the results of spill tests of hazardous materials to assure that the facility will accommodate the specific needs of potential test sponsors.

Review of the Preliminary Facility Design Description document is invited and comments would be appreciated by June 11, 1984, so that the facility may be designed to be as flexible as possible in order to assure its maximum use.

For Further Information Contact: Mr. J. E. Walsh, Jr., U.S. Department of Energy, Deputy Assistant Secretary for Management, Planning and Technical Coordination, Office of Fossil Energy, FE-10, Washington, D.C. 20545.

Issued in Washington, D.C. on May 16, 1984.

William A. Vaughan,

Assistant Secretary Fossil Energy.

[FR Doc. 84-13754 Filed 5-22-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Projet No. 7072-001]

Beaver Power Group IV, Ltd.; Surrender of Preliminary Permit

May 18, 1984.

Take notice that the Beaver Power Group IV, Ltd. Permittee for the proposed Lock Haven Dam Project No. 7072, has requested that its preliminary permit be terminated. The permit was issued on September 20, 1983, and would have expired on February 28, 1985. The project would have been located on the West Branch of the Susquehanna River, in Clinton County, Pennsylvania. The Permittee filed its request on April 5, 1984, and the surrender of the preliminary permit for Project No. 7072 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13839 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-91-002]

Carolina Cogeneration Company, Inc.; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

May 18, 1984.

On April 18, 1984, Carolina Cogeneration Company, Inc., (Applicant) c/o SJE Investments, 1960 Lincoln Park West, Chicago, Illinois 60614, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. The application for recertification reflects a change in location and electric power production capacity of the facility. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near New Bern, Craven County, North Carolina. The primary energy source for the facility will be biomass in the form of low Btu gas produced from the gasification of peat. The facility will consist of a combustion turbine generator, a waste heat recovery boiler, and two steam turbine

generators. The electric power production capacity of the facility will be 48.5 megawatts.

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 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13840 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6883-001]

City of Shawano, Wisconsin; Surrender of Preliminary Permit

May 18, 1984.

Take notice that the City of Shawano, Wisconsin, Permittee for the proposed Hayman Falls Hydro Project No. 6883, has requested that its preliminary permit be terminated. The permit was issued on April 23, 1983, and would have expired on September 30, 1984. The Project would have been located on the Embarass River near Pella, Shawano County, Wisconsin.

The Permittee filed its request on April 9, 1984, and the surrender of the preliminary permit for Project No. 6883 is deemed accepted 30 days from the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13841 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-341-005; ER81-267-003]

Kentucky Utilities Co.; Compliance Filing

May 17, 1984.

Take notice that on May 7, 1984, Kentucky Utilities Company (KU), submitted for filing its compliance report pursuant to Commission's letter order dated April 6, 1984.

KU states that this filing includes changed pages to KU's cost-of-service, rate design pages, workpapers and revised rate sheets. KU estimates that refunds on an actual basis for the ten month effective period of the rate at issue are approximately $208 thousand for the primary customers and $38 thousand for the transmission customers, exclusive of interest.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 4, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13847 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5897-001]

Long Lake Energy Corp.; Surrender of Preliminary Permit

May 18, 1984.

Take notice that Long Lake Energy Corporation (LLEC), Permittee for the proposed Indian Creek Project No. 5897, requested by letter dated April 11, 1984, that its preliminary permit be surrendered. The preliminary permit was issued on April 8, 1983, and would have expired on September 30, 1984. LLEC has determined that the project is not economically feasible at this time.

The surrender of the preliminary permit for Project No. 5897 will become effective thirty days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13842 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-276-000]

Mississippi Power & Light Co.; Compliance Filing

May 17, 1984.

Take notice that on April 23, 1984, Mississippi Power and Light Company (MP&L), submitted for filing its responses to Commission's deficiency letter dated March 13, 1984.

MP&L submits the following documents in response to Commission's deficiency letter:

(1) Narration, data and supporting assumption required by Section 35.13(n)(38);

(2) Revisions to Period II statements reflecting an adjustment for the deficiency in MP&L's accumulated provision for deferred taxes, accompanied by a comprehensive explanation of the basis and derivation for the adjustment;

(3) Detailed work papers and a comprehensive explanation of the bases for test period estimates; and

(4) Statement in support of depreciation rates for the Independence Steam Electric Station.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 5, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13848 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-288-000]

Ruth Fisher Elementary School District No. 90; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 18, 1984.

On April 24, 1984, Ruth Fisher Elementary School District No. 90, (Applicant) of Star Route, Tonopah, Arizona 85354, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Ruth Fisher Elementary School in Tonopah, Arizona. The primary energy source for the facility is solar energy. The facility consists of 19,300 square feet of parabolic, tracking solar collectors which heat a synthetic oil transfer fluid. The oil is pumped into a 20,000 gallon storage tank and in turn through a heat exchanger to produce steam. The steam is used to operate a steam turbine generator with an electric power production capacity of 120 kilowatts The steam exhausted from the turbine generator is used for domestic hot water production, building heat, swimming pool water heating, and building air conditioning.

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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13843 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-424-000]

Southern California Edison Co.; Filing

May 17, 1984.

The filing Company submits the following:

Take notice that on May 7, 1984, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Edison-Glendale Firm Transmission Service Agreement (Vincent-Sylmar)", which has been executed by Edison and the City of Glendale, California ("Glendale").

Edison states that under the terms and conditions of the Agreement, Edison will make available to Glendale firm transmission service between the Point of Receipt and the Point of Delivery as specified in the Agreement.

Edison requests as effective date of May 25, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protect 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 May 31, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13849 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-425-000]

Southern California Edison Co.; Filing

May 17, 1984.

The filing Company submits the following:

Take notice that on May 7, 1984, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Edison-Pasadena Firm Transmission Service Agreement (Vincent-Goodrich)", which has been executed by Edison and the City of Pasadena, California ("Pasadena").

Edison states that under the terms and conditions of the Agreement, Edison will make available to Pasadena firm transmission service between the Point of Receipt and the Point of Delivery as specified in the Agreement.

The Agreement is proposed to become effective May 25, 1984, and when accepted for filing by the Commission without changes unacceptable to either Party.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Pasadena, California.

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 May 31, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13850 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-004]

Stingray Pipeline Co.; Change in Tariff

May 18, 1984.

Take notice that on April 30, 1984 Stingray Pipeline Company (Stingray) tendered for filing Twelfth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. An effective date of May 1, 1984 was proposed.

Stingray submits that this tariff sheet effects a rate reduction to reflect a reduction in its rate base in compliance with a Stipulation and Agreement dated August 5, 1984, filed with and approved by the Commission October 4, 1984 in Docket No. RP79-28-000 (Offshore Construction Costs of Offshore Pipelines).

Stingray states that copies of its filing have been served on all customers and interested state commissions.

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 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 petitions or protests should be filed on or before May 25, 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 persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13844 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-22-000]

Trunkline Gas Co.; Filing

May 18, 1984.

Take notice that on May 14, 1984, Trunkline Gas Company (Trunkline) tendered for filing the following:

Gas Sales Contract Between Trunkline Gas Company and Central Illinois Public Service Company.

Statement of Sales and Revenues for the Twelve Months Immediately Preceding and for the Twelve Months Immediately Succeeding the Proposed Effective Date of the Gas Sales Contract with Central Illinois Public Service Company for service in Hoopeston, Illinois.

Trunkline states that this Gas Sales Contract supersedes the sales contract between Trunkline Gas Company and Central Illinois Public Service Company dated September 28, 1970. This contract does not propose any changes to the existing sales, delivery points, or other conditions of sale.

Trunkline proposes an effective date of June 1, 1984, and respectfully requests

waiver of § 154.22 of the Commission's Regulations.

Trunkline states that it has sent copies of this filing to the Illinois Commerce Commission and to the purchaser.

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 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 petitions or protests should be filed on or before May 25, 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 persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13845 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-23-000]

Trunkline Gas Co.; Tariff Filing

May 18, 1984.

Take notice that on May 14, 1984, Trunkline Gas Company (Trunkline) tendered for filing the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1: Twelfth Revised Sheet No. 34.

Trunkline states that the revised Index of Purchasers reflects a new service agreement with Central Illinois Public Service Company (CIPSCO) dated May 1, 1984. The gas sales contract replaces the September 28, 1970, contract with CIPSCO for service in Hoopeston, Illinois. CIPSCO is currently served by Trunkline pursuant to its Rate Schedule G-2 of its FERC Gas Tariff, Original Volume No. 1.

Trunkline porposes an effective date of June 1, 1984, and respectfully requests waiver of Section 154.22 of the Commission's Regulations.

Trunkline states that it has sent copies of this filing to its jurisdictional customers and respective state regulatory commissions.

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 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 petitions or protests should be filed on or before May 25, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13846 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time: Monday, June 11, 1984, 9:00 a.m.—6:00 p.m. Tuesday, June 12, 1984, 9:00 a.m.—5:00 p.m.

Place: U.S. Department of Energy, Room 4A-104, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, D.C. 20545, Telephone: 301/353-4829.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Monday, June 11, 1984

—Discussion of FY 1985 Budgets for DOE High Energy Physics and NSF Elementary Particle Physics programs
—Discussion initiation of the HEPAP Subpanel on computing needs in high energy physics
—Report on the Reference Designs Study for the Superconducting Super Collider (SSC)
—Status of R&D and Interim Management for the SSC
—Report and Discussion on the meeting of the International Committee on Future Accelerators (ICFA)
—Public Comment (10 minute rule)

Tuesday, June 12, 1984

—Status report on Capital Equipment funding guidelines and plans
—Status reports on on-going and planned activities at SLAC, Fermilab, and BNL
—Discussion on program advisory mechanism for experimental research activities not involving accelerator facilities
—Report on US/Japan bilateral agreement in high energy physics
—Report on U.S. summer school activities related to high energy accelerator physics
—Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m.—4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 17, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-13756 Filed 5-22-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed, the Week of April 27 Through May 4, 1984

During the Week of April 27 through May 4, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: May 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 27 through May 4, 1984]

Date	Name and Location of Applicant	Case No.	Type of submission
Aug. 19, 1983	Kern Oil & Refining Company, Bakersfield, CA	HEG-0034	Petition for Special Redress. If granted: Kern Oil and Refining Company would receive a portion of the Dow Chemical, USA escrow account (Case No. HEX-0096) regarding the firm's entitlement exception relief.
Apr. 11, 1984	Highway Oil Company, Inc., Washington, D.C	HRZ-0200	Interlocutory Order. If granted: The October 29, 1984, Proposed Remedial Order (Case No. HRO-0123) issued to Highway Oil Company, Inc., would be dismissed.
Apr. 30, 1984	Introl Corporation, Los Angeles, CA	HFA-0223	Appeal of an Information Request Denial. If granted: The April 19, 1984, Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and Introl Corporation would receive access to the solicitation and bid materials related to IFB 208-PM-84 issued by a DOE contractor, the Reynolds Electrical & Engineering Company, Inc.
May 3, 1984	Thomas P. Reidy, Inc., Washington, D.C	HRR-0090	Motion for Modification/Rescission. If granted: The February 3, 1984, Decision and Order (Case Nos. HRD-0068 & HRH-0062) issued to Thomas P. Reidy, Inc. would be modified regarding Thomas P. Reidy, Inc.'s, Motions for Discovery and Evidentiary Hearing.

REFUND APPLICATIONS RECEIVED

[Week of Apr. 27 through May 4, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
Apr. 17, 1984	Amoco/Ainsley Oil Co. et al	RF21-12317 through RF21-12334.
Apr. 26, 1984	Amoco/Hershel Allen et al	RF21-12335 through RF21-12338.
Apr. 30, 1984	Amoco/Tony's Standard	RF21-12314.
Do	Amoco/Mid-American Coaches	RF21-12315.
Do	Amoco/Mid-American Coaches	RF21-12316.
Do	Ada Resources/Port of Houston Authority	RQ24-86.
May 3, 1984	Amoco/Bona Fide General Agency	RF21-12339.
May 4, 1984	Conoco/Banco Properties, Inc	RF34-3.
Do	Conoco/ECO Petroleum Corp	RF34-4.

[FR Doc. 84-13755 Filed 5-22-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of April 20 Through April 27, 1984

During the Week of April 20 through April 27, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated May 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 20 through Apr. 27, 1984]

Date	Name and location of Applicant	Case No.	Type of submission
Nov. 23, 1983	Economic Regulatory Administration/Sabine Refining and Trading Co. et al. Washington, D.C.	HRJ-0048	Request for Portective order. If granted: Economic Regulatory Administration would enter into a Protective Order with Sabine Refining and Trading Company, Inc. regarding the release of proprietary information to Sabine Refining and Trading Company, Inc. in connection with the Proposed Remedial Order issued to Sabine Refining and Trading Company, Inc. (Case No. HRO-0130).
Feb. 16, 1984	Research Fuels, Inc., Washington, D.C	HEZ-0199	Interlocutory order. If granted: The proceedings involved in the Petition for Special Redress filed on behalf of Lucky stores, Inc. (Case No. HEG-0031) would be consolidated with the remand by the U.S. District Court Northern District of Texas; Oasis Petroleum Corporation (Case No. HCX-0100).
Apr. 23, 1984	Alan Ramo Oakland, California	HFA-0218	Appeal of An Information Request Denial. If Granted: The April 10, 1984 Freedom of Information Request Denial issued by the Office of Military Application would be rescinded, and Alan Ramo would receive access to DOE information concerning the Livermore Action Group.
Apr. 23, 1984	John Wilson, Seattle, Washington	HFA-0219	Appeal of an Information Request Denial. If granted: The April 2, 1984 Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded, and John Wilson would receive access to the report produced by Carl R. Foleen as a part of Bonneville Power Administration work order DE-AP79-83BP13645.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Apr. 20 through Apr. 27, 1984]

Date	Name and location of Applicant	Case No.	Type of submission
Apr. 23, 1984	Three L Inc., Houston, Texas	HEE-0093	Exception to the Reporting Requirements. If granted: Three L Inc. would not be requied to file Form EIA-782 B Reseller/Retailer's Monthly Petroleum Product Sales Report.
Apr. 24, 1984	Arnold & Porter, Washington, D.C.	HFA-220	Appeal of an Information Request Denial. If Granted: The March 30, 1984 Freedom of Information request Denial of Information Request Denial issued by the Office of Fuels Programs would be rescinded, and Arnold & Porter would receive access to certain documents and records regarding the Petroleum Price Regulations.
Apr. 26, 1984	Gregg Pritchard, Washington, D.C	HRS-0043	Request for Stay. If Granted: Gregg Pritchard would receive a stay of the proposed Remedial Order proceeding (Case No. HRO-0210) pending a final determination on its appeal to the United States Bankruptcy Court for the Northern District of Texas.
Apr. 26, 1984	International Brotherhood of Electrical Workers, Buffalo, New York.	HFA-0221	Appeal of an Information Request Denial. If granted: The March 21, 1984 Freedom of Information Request Denial issued by the Idaho operations Office would be rescinded, and the International Brotherhood Electrical Workers would receive access to certified payroll reports indicating the names of the employees of the electrical contractor performing work at west Valley Demonstration project.
Apr. 26, 1984	Susan Wright Ann Arbor, Michigan	HFA-0222	Appeal of an Information Request Denial. If Granted: The April 12, 1984 Freedom of Information Request Denial issued by the FOI and Privacy Acts Activities Branch Would be rescinded, and Susan Wright would receive a waiver of fees for processing her Freedom of Information Request.
Apr. 27, 1984	National Helium Corporation, Washington, D.C.	HQF-0501	Implementation of Second Stage Refund Procedures. If granted: The Office of Hearings and Appeals would implement second-stage procedures in the special refund proceeding instituted to distribute funds remitted to the Department of Energy by the National Helium Corporation (Case No. BEE-0006).

NOTICES OF OBJECTION RECEIVED

[Week of Apr. 20-27, 1984]

Date	Name and Location of Applicant	Case No.
Apr. 23, 1984	Petro-Thermo Corporation, Hobbs, New Mexico.	HEE-0074

[FR Doc. 84-13786 Filed 5-22-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 3G2944/T445]

Fenarimol Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide fenarimol in or on the agricultural commodity pecans. This temporary tolerance was requested by Elanco Products Co.

DATE: This temporary tolerance expires January 1, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460;

Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285, has requested in pesticide petition PP 3G2944 the establishment of a temporary tolerance for residues of the insecticide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] in or on the raw agricultural commodity pecans at 0.10 part per million as a result of preharvest applications.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 1471-EUP-86 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 1, 1986. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 8, 1984.

Robert V. Brown,

Acting Director, Registration Division Office of Pesticide Programs.

[FR Doc. 84-13449 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2593/T380 PH-FRL 2591-1]

Fenarimol Extension and Amendment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended and amended temporary tolerances for residues of the fungicide fenarimol in or on various raw agricultural commodities. These temporary tolerances were requested by Elanco Products Co.

DATE: This temporary tolerance expires March 31, 1985.

FOR FURTHER INFORMATION CONTACT:

Henry Jacoby, Product Manager (PM) 21, Registration Division (TS 767C), Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460;

Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of June 30, 1982 (47 FR 28454), announcing the establishment of temporary tolerances for residues of the fungicide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] in or on the raw agricultural commodities applies at 0.10 part per million (ppm) and grapes at 0.05 ppm as a result of preharvest applications. The company has requested the amendment of the tolerances to raise the level for grapes to 0.10 ppm from the 0.05-ppm level and has also requested that temporary tolerances be established for residues of the fungicide fenarimol in or on the raw agricultural commodities liver and kidneys of cattle, goats, hog, horses, and sheep at .1 ppm and meat, fat, and meat byproducts (except liver and kidneys) of cattle, goats, hogs, horses, and sheep at 0.01 ppm. This tolerance was issued in response to pesticide petition PP 2G2593, submitted by Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (1417–EUP–75), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the fungicide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 31, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 8, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-13448 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50603A; PH-FRL 2590-6]

Issuance of an Experimental Use Permit; USDA Forest Service

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued an experimental use permit (EUP) to the U.S. Department of Agriculture's (USDA) Forest Service. The EUP, 49849-EUP-1, allows the use of a total of .0009 pound of sodium fluoroacetate (Compound 1080) in grain bait on rangeland to evaluate the control of black-tailed prairie dogs. A maximum of 75 acres may be treated; the program is authorized only in the State of South Dakota.

DATE: The permit is effective from November 21, 1983 to November 21, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460;

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of August 31, 1983 (48 FR 39505) announcing the receipt of an application for an EUP from USDA's Forest Service. The application submitted by USDA's Forest Service requested that the Agency approve the experimental use of Compound 1080 in grain bait on rangeland to evaluate the control of black-tailed prairie dogs. The public was given a 30-day period to comment on the receipt of application. The Agency received five comments on this EUP application; one comment objected to the issuance of the permit, four were in favor of issuance.

A major concern of the commenter objecting to the issuance of the EUP was the impact on endangered species namely, the black-footed ferret (*Mustela nigripes*) and the swift fox (*Vulpes velox hebes*) resulting from the proposed experimental work. The commenters were also concerned that the Agency would rely on the current available percontrol survey methods to detect the black-footed ferret. These methods were recently found to be inadequate to protect this species from secondary poisoning.

In accordance with the section 7 Interagency Cooperation Regulations under 50 CFR Part 402 and the

Endangered Species Act, 16 U.S.C. 1531 *et seq.*, the Agency has referred to USDI's Office of Endangered Species (OES) for an assessment of the impact on these endangered species. The OES has concluded that the experimental application of Compound 1080 as limited to the proposed 75 acres of the test sites located in the Buffalo Gap National Grassland is not likely to jeopardize the continued existence of the black-footed ferret. The OES also noted that the northern swift fox is listed as an endangered species in Canada and not in the United States. Based on the opinion of the OES, the Agency concludes that the possible risk to black-footed ferrets and swift foxes would not justify denial of the permit.

One of the commenters stated that any decision on the experimental use of Compound 1080 should be postponed until a final determination on its future both as a predicide and a rodenticide is made.

The Administrator's final decision on Compound 1080 as a predicide was issued October 31, 1983. Though this decision concerned the use of Compound 1080 only as a predicide, it affirmed Administrative Law Judge Nissen's October 22, 1982 Initial Decision, in which he recommended the use of Compound 1080 in toxic collars and in single lethal dose baits. This decision was not relevant to the experimental use of Compound 1080 against prairie dogs; however, the Agency has taken it into account in its decision to issue this permit.

The Agency has also been conducting a Special Review of all rodenticides containing Compound 1080 and the review has not yet been completed. The existence of an ongoing Special Review does not prevent the Agency from issuing the requested permit. The Agency has taken into consideration the information collected through the Special Review in deciding whether to issue the permit.

In the notice of receipt of application for this EUP, the Agency announced that the size of the proposed test area was considered too small to permit an adequate assessment of the impact of the use of Compound 1080. Consequently, USDA's Forest Service agreed to modify the proposed program by deleting all work pertaining to the stated program objective to assess non-target mammals, birds, and invertebrate mortality associated with the use of each rodenticide. The remaining experimental work is designed to assess prairie dog mortality associated with the use of each rodenticide.

The Agency has specifically found that the modified program is likely to generate reliable efficacy data and that the data would be useful to the Agency in deciding whether to register a pesticide use. The Agency also finds that the program would not be likely to cause any unreasonable adverse effects in the environment. The Agency believes that USDA's request for an EUP for the experimental use of Compound 1080 in grain bait to evaluate the control of black-tailed prairie dogs is reasonable and accordingly has issued the permit.

Interested persons wishing to review the experimental use permit are referred to the designated product manager listed above. It is suggested that anyone interested in reviewing this permit notify the Agency in advance by calling 703-557-2600. The permit will be made available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended. (7 U.S.C. 136c))

Dated: May 8, 1984.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-13445 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-374; PH-FRL 2592-4]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment, amendment, and withdrawal of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number (PF-374) and the petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, bring comments to:

Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM-12: Jay Ellenberger.	Rm. 202, CM#2 (703-557-2386).	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
PM-15: George LaRocca.	Rm. 204, CM#2 (703-557-2400).	Do.
PM-16: William Miller.	Rm. 211, CM#2 (703-557-2600).	Do.
PM-17: Timothy Gardner.	RM. 207, CM#2 (703-557-2690).	Do.
PM-21: Henry Jacoby.	Rm. 229, CM#2 (703-557-1900).	Do.
PM-23: Richard Mountfort.	Rm. 237, CM#2 (703-557-1830).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and food/feed additive (FAP) petitions relating to the establishment, amendment, and withdrawal of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

I. Initial Filings

1. *PP 4F3018.* ICI Americas, Inc., Concord Pike & New Murphy Road, Wilmington, DE 19897. Proposes to amend 40 CFR 180.378 by establishing a tolerance for residues of the insecticide permethrin (3-phenoxyphenyl)methyl (±)-*cis, trans*-3-(2,2-dichlorethenyl)-2, 2-dimethylcyclopropanecarboxylate in or on leafy vegetables, except brassica, at 20 parts per million (ppm). The proposed analytical method of determining residues is gas chromatography. (PM-17).

2. *PP 4F3072.* Stauffer Chemical Company, Westport, CT 06881-0850. Proposes amending 40 CFR 180.1079 by establishing an exemption from the

requirement of a tolerance for residues of the insect growth regulator 1-(8-methoxy-4,8-dimethylnonyl)-4-(1-methylethyl)benzene in or on all food and non-food field crops. The proposed analytical method for determining residues is gas chromatography. (PM–17).

3. *PP 4F3062.* The Dow Chemical Company, PO Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on stone fruits at 3.0 ppm, of which not more than 2.0 ppm is chlorpyrifos. The proposed analytical method for determining residues is gas chromatography. (PM–12).

4. *PP 4F3071.* Union Carbide Corporation, PO Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR Part 180 by establishing tolerances for the insecticide aldoxycarb [2-methyl-2-(methylsulfonyl)-propanal-*O*-[methylamino)carbonyl]oxime in or on broccoli at 1.0 ppm, cabbage at 1.5 ppm, cauliflower at 0.1 ppm, and sweet potatoes at 0.3 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–12).

5. *PP 4F3065.* Merck, Sharp & Dohme Research Laboratories, Hillsborough Road, Three Bridges, NJ 08887. Proposes amendment 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the insecticide avermectin B_1, a mixture of avermectin B_{1a} (5-*O*-demethyl-avermectin A_{1a}) and avermectin B_{1b} (5-*O*-demethyl-25-de (1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a}) when used at a concentration of 0.011 percent, for fire ant control on pasture and range grasses. The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC). (PM–15).

6. *PP 4F3066.* Uniroyal Chemical, Division of Uniroyal, Inc., 74 Amity Rd., Bethany, CT 06525. Proposes amending 40 CFR 180.301 by establishing a tolerance for the combined residues of the fungicide carboxin (5,6-dihydro-2 methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3 carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) (from treatment of seed prior to planting) in or on the commodity safflower at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography with microcoulometric nitrogen detector. (PM–21).

7. *PP's 4F3069 & 4F3070.* ICI Americas, Inc. Proposes amending 40 CFR 180.411 by establishing tolerances for the residues of the herbicide fluazifop-butyl (± -2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of ± -butyl-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (fluazifop-butyl), all expressed as fluazifop in or on the commodities carrots at .2 ppm (PP 4F3069) and onions at .5 ppm (PP 4F3070). The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC). (PM–23).

8. *PP 4F3074.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as the parent compound in or on the following commodities:

Commodities	Parts per million (ppm)
Grain of barley, rye, and wheat	0.1
Kidney and liver of cattle, goats, hogs, horses, poultry, and sheep	0.1
Rice, grain	0.1
Rice, straw	3.0
Straw of barley, rye, and wheat	1.5

The proposed analytical method for determining residues is gas chromatography using an alkali flame ionization detector operating in the nitrogen specific mode. (PM–21).

II. Amended Petitions

PP 2F2597 & FAP 2H5327. Union Carbide Corp. EPA issued notices published in the **Federal Register** of February 17, 1982 (47 FR 6991) which announced that Union Carbide Corp., had submitted pesticide petition (PP) 2F2597 and food/feed additive petition (FAP) 2H5327 to the Agency proposing to amend 40 CFR 180.269 (PP 2F2597) and 21 CFR 193.15 (food) and 21 CFR 561.30 (feed) (FAP 2H5327) by establishing tolerances for the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoly)oxime and its cholinesterase-inhibiting metabolities 2-methyl 2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl)oxime in or on certain commodities.

Union Carbide has amended the petitions by increasing the tolerances as follows:

Petition ID	CFR affected	Commodities	Parts per million (ppm)	
			From	To
PP 2F2597	40 CFR 180.269.	Grapes	0.30	0.5
FAP 2H5327	21 CFR 193.15.	Raisins	.75	1.3
		Grapes, pomace dry.	.75	1.5
FAP 2H5327	21 CFR 561.30.	Raisin waste	.30	3.0

The proposed analytical method for determining residues is gas chromatography using a flame photometric detector. (PM–12).

III. Petition Withdrawal

PP OF2358. EPA issued a notice published in the **Federal Register** of September 2, 1980 (45 FR 58193) which announced that Mobay Chemical Corp., Agricultural Chemicals Div., P.O. Box 4913, Kansas City MO 64120, had submitted pesticide petition OF2358 proposing to amend 40 CFR 180.330 by establishing tolerances for the residues of the insecticide S-[2-(ethylsulfinyl)ethyl] *O,O*-dimethyl phosphorothioate and its cholinesterase inhibiting metabolites in or on the following commodities:

Commodities	Parts per million (ppm)
Alfalfa	2
Alfalfa chaff	3
Alfalfa hay	7
Clover	2
Clover chaff	3
Clover hay	7

Mobay Chemical Corp., has withdrawn this petition without prejudice in accordance with section 408 of the Federal Food, Drug, and Cosmetic Act. (PM–16).

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)), 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(11)))

Dated: May 14, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-13791 Filed 5-22-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Stephen Nye Barton and Pecan Valley Communications, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Stephen Nye Barton; San Saba, TX.	BPH-830502AK	84-465
B. Pecan Valley Communications, Inc.; San Saba, TX.	BPH-830831AG	84-466

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-13823 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-475; File No. BP-830825AD, et al.]

Ed R. Perkins and Raymond and Brenda Chandler; Hearing Designation Order

In re Applications of Ed. R. Perkins, WHDM, McKenzie, Tennessee, Has: 1440 kHz, 500 W, D Req: 1040 kHz, 1 kW, D, MM Docket No. 84-475, File No. BP-830825AD, Raymon and Brenda Chandler, St. Joseph, Tennessee, Req: 1040 kHz, 2.5 kW, ND-D MM Docket No. 84-476, File No. BP-830909AC, For Construction Permit.

Adopted: May 9, 1984.
Released: May 16, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast stations.

2. The response of Question 3(a) of the application form, Raymon and Brenda Chandler have indicated that they are not in compliance with the provisions of Section 310 of the Communications Act, as amended, relating to interests of aliens and Foreign governments. Whether this response reflects an unintentional error on their parts or an accurate assessment of their situation we cannot determine from the information before us. Therefore, an appropriate issue will be specified.

3. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the Chandlers. Hence, an appropriate issue will be specified.

4. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which proposal would better provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

5. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for a hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Raymon and Brenda Chandler.

2. To determine whether the application of Raymon and Brenda Chandler is in compliance with Section 310 of the Communications Act of 1934, as amended, with respect to interests of aliens and Foreign governments.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

6. The determine, in light of the evidence adduced pursuant to the foregiong issue, which of the applications should be granted.

6. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

7. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

8. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by Section 73.3594(g) of the rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-13824 Filed 5-22-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-705-DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–705–DR), dated May 15, 1984, and related determinations.

DATE: May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice: Notice is hereby given that, in a letter of May 15, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage resulting from severe storms, tornadoes and flooding in certain areas of the Comnmonwealth of Kentucky beginning on May 6, 1984, are of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore delcare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

The Counties of Bell, Breathitt, Clay, Floyd, Knott, Knox, Laurel, Leslie, Letcher, Magoffin, Martin, Perry, Pike and Whitley for Public Assistance and Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–13818 Filed 5–22–84; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–706–DR]

West Virginia: Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–706–DR), dated May 15, 1984, and related determinations.

DATED: May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

Notice: Notice is hereby given that, in a letter of May 15, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage resulting from severe storms and flooding in certain areas of the State of West Virginia beginning on May 3, 1984, are of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

Mingo County for Public Assistance and Individual Assistance.

Logan, McDowell and Wayne Counties as adjacent counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–13819 Filed 5–22–84; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Application of Shipping Act of 1984 to Formal Proceedings Pending Before Federal Martime Commission on June 18, 1984

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The applicability of the Shipping Act of 1984 to proceedings instituted under the Shipping Act, 1916 pending before the Commission on June 18, 1984, the effective date of the 1984 Act, will be determined initially by the Presiding Administrative Law Judge on a case-by-case basis.

DATE: May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: Neither the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1701, *et seq.*) nor its legislative history indicates what law is to be applied to complaint or Commission-instituted proceedings brought under the Shipping Act, 1916 (46 U.S.C. 801 *et seq.*), which are pending on June 18, 1984, the effective date of the 1984 Act.[1] Generally, a new statute would apply to cases pending on the date of its enactment unless manifest injustice would result, or there is a statutory directive or legislative history ot the contrary. *Bradley* v. *Richmond School Board*, 416 U.S. 696 (1974). Under

[1] Section 20(e)(2) of the Shipping Act of 1984 (46 U.S.C. app. 1719(e)(2)) which applies to *suits* with respect to claims arising out of conduct engaged in prior to the Act, was intended only to preserve antitrust actions. It has no application to cases pending before the Commission. H.R. REP. No. 53, 98th Cong., 1st Sess. 39 (1983).

Bradley, a finding of "manifest injustice" depends on three factors: the nature and identity of the parties, the nature of the parties' rights, and the impact of the change in the law on those rights. *See also United States* v. *Schooner Peggy*, 1 Cranch 103 (1801); *Thorpe* v. *Housing Authority of the City of Durham*, 393 U.S. 268 (1969); *Central Freight Lines, Inc.* v. *U.S.*, 669 F.2d 1063 (5th Cir. 1982); *Indianapolis Power and Light Company* v. *ICC*, 687 F.2d 1098 (7th Cir. 1982); and *Iowa Power and Light Co.* v. *Burlington Northern, Inc.*, 647 F.2d 796 (8th Cir. 1981); *but see Greene* v. *U.S.*, 376 U.S. 149 (1964). Whether the 1984 Act can properly be applied under the *Bradley* criteria depends on particular facts in a given proceeding. Therefore, the presiding administrative law judge (ALJ) is in the best position to make that determination. Accordingly, rather than attempting to formulate a policy of general application, each ALJ shall decide initially any issues relating to the application of the 1984 Act which may be raised by the parties in complaint proceedings and Commission-instituted investigations pending before him.[2] The cases cited above are not necessarily exhaustive and are not intended in any way to limit the ALJ in making his determination.

The ALJ shall rule on any due process objections to the application of the 1984 Act that may arise because the potential liability for penalties and reparations is increased under the 1984 Act.[3] The Constitutional prohibition against *ex post facto* laws only applies to criminal or penal statutes. Thus, the threshold question is whether the amounts to be recovered are penal. *See Kennedy* v. *Mendoza-Martinez*, 372 U.S. 144 (1963) and *United States* v. *Ward*, 448 U.S. 242 (1983). Liquidated damages and civil penalties have been found to be outside the scope of the *ex post facto* prohibition. *See Thompson* v. *Sawyer*, 678 F.2d 257 (D.C. Cir. 1982); *Ames* v. *Merril Lynch, Pierce, Fenner & Smith*, 567 F.2d 1174 (2d Cir. 1977); *FEC* v. *Weinsten*, 462 F.Supp. 243 (S.D.N.Y. 1978); *U.S.* v. *Great Atlantic & Pac. Tea Co.*, 342 F.Supp. 272 (D. Md. 1972); *United States* v. *Smith*, 95 F.Supp. 622 (W.D.Pa. 1951). In the case of a non-penal statute, it appears that a *Bradley* type analysis by the ALJ will suffice.

There is also a possibility that some complainants may seek to revive claims which are barred by the two-year statute of limitations in the 1916 Act by filing under the 1984 Act which has a three-year statute of limitations. Where a statute in creating a liability also puts a time limitation into its existence, a subsequent statutory extension of the limitation after its expiration has been found to amount to a taking of property without due process of law. *William Danzer & Company, Inc.* v. *Gulf & Ship Island Railroad Co.*, 268 U.S. 633 (1925); *but see Campbell* v. *Holt*, 115 U.S. 620 (1885); *Chase Securities Corp.* v. *Donaldson*, 325 U.S. 304, 312 n. 8 (1945); and *Electrical Workers* v. *Robbins & Myers, Inc.*, 429 U.S. 229 (1976). Accordingly, the ALJ shall determine all statute of limitations issues.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-13760 Filed 5-22-84; 8:45 am]

BILLING CODE 6730-01-M

[2] If the proceeding is one pending before the Commission itself on June 18, 1984, the Commission will make any necessary determinations as to the applicable law.

[3] *E.g., any* knowing and willful violation of the Act may result in as much as a $25,000 penalty. 46 U.S.C. app. 1712(a). This may subject one who violates the Act to larger penalties than would be authorized under section 32 of the Shipping Act, 1916 (1916 Act). Section 22 of the 1916 Act allows a complainant to obtain reparations for a violation of the Act; however, the amount of the reparations is limited to the actual amount of the injury suffered. Under section 11(g) of the 1984 Act, a person can recover reparations up to twice the amount of the actual injury plus attorney's fees. 46 U.S.C. app. § 1710(g).

Status of Shippers' Associations Under the Shipping Act, 1984

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Commission does not at this time intend to issue rules governing the formation and operation of shippers' associations under the Shipping Act of 1984. To the extent subject to the Act, matters that arise from the activities of such associations will be addressed on a case-by-case basis.

DATED: May 15, 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (the Act) (46 U.S.C. app. 1701 *et seq.*) recognizes shippers' associations as discrete entities in the transportation industry. Section 3(24) of the Act (46 U.S.C. app. 1702(24)), defines a shippers' association as "a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts." Shippers' associations are also mentioned in sections 8(c) 10((b) (13), and 15(b) of the Act (46 U.S.C. app. 1707(c), 1709(b)(13), and 1714(b)). None of these provisions, however, subject shippers' associations to direct, on-going affirmative regulation by the Federal Maritime Commission. The Commission, therefore, does not intend to issue any rules governing the formation and operation of such associations at this time.

The Conference Report which accompanies the Shipping Act of 1984 indicates that the legal issues arising from the formation of shippers' associations are matters falling within the jurisdiction of other federal agencies. *See* H.R. Rep. No. 600, 98th Cong., 2d Sess. 38 (1984). That Report also advises that cooperative activities of shippers in obtaining reduced rates would most likely not run afoul of the antitrust laws, especially if the group did not possess "threatening market power." *Id.* In any event, the Report further notes that Business Review Letters of the Department of Justice and Advisory Opinions of the Federal Trade Commission are available to provide shippers with advice on whether their contemplated concerted actions as shippers' associations comport with the antitrust laws; and that Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011 *et seq.*) allows groups of exporters to apply to the Secretary of Commerce for antitrust certification.

To the extent shippers' associations become involved in activities which may be subject to the Shipping Act of 1984, it is the Commission's intention to address any matters and issues that arise therefrom on an *ad hoc* basis.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-13761 Filed 5-22-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amsouth Bancorporation; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through a national bank subsidiary in the making of commercial loans, and other activities specified below. The proposed subsidiary will not engage in deposit-taking transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company*

(70 Federal Reserve Bulletin 371 (1984)). Although the Board in publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than June 14, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation*, Birmingham, Alabama; to engage through the following subsidiaries in providing consumer and commercial loans of various kinds, trust, investment advisory and other banking services and providing depository services, except that the banks will not provide deposit services where the depositor has legal right to withdraw on demand. Each subsidiary will serve the state in which it is located: AmSouth Bank Jackson, N.A., Jackson, Mississippi; AmSouth Bank Atlanta, N.A., Atlanta, Georgia; AmSouth Bank Chattanooga, N.A., Chattanooga, Tennessee; AmSouth Bank Charlottee, N.A., Charlotte, North Carolina; and AmSouth Bank Baton Rouge, N.A., Baton Rouge, Louisiana.

Board of Governors of the Federal Reserve System, May 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-13774 Filed 5-22-84; 8:45 am]

BILLING CODE 6210-01-M

Lyons Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U. S. C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 1984.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand avenue, Kansas City, Missouri 64198:

1. *Lyons Bancorp, Inc.*, Brighton, Colorado; to become a bank holding company by acquiring at least 98 percent of the voting shares of Valley Bank of Lyons, Lyons, Colorado.

Lyons Bancorp, Inc. has also applied to acquire the assets and liabilities of Centennial Insurance Services, Inc., Lyons, Colorado, and thereby engage in the sale of general insurance in a town with a population of less than 5,000

Board of Governors of the Federal Reserve System, May 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-13775 Filed 5-22-84; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corporation; Application To Engage De Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (49 FR 794) for the Board"s approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources,

decreased or unfair competition, conflict of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than June 13, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania; to engage through a national bank subsidiary, Mellon Bank (FL), N.A., Boca Raton, Florida, in providing trust services, consumer and mortgage lending services, and investment advisory services, and to engage in deposit-taking activities. These activities would be conducted nationwide except that deposit-taking would be limited to the state of Flordia.

Board of Governors of the Federal Reserve System, May 18, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-13776 Filed 5-22-84; 8:45 am]

BILLING CODE 6210-01-M

Metro Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 14, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Metro Bancorp, Inc.*, Melrose, Massachusetts; to become a bank holding company by acquiring at least 80 percent of the voting shares of Metropolitan Bank and Trust Company, Melrose, Massachusetts.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Washington State Bancshares, Inc.*, Lafayette, Louisiana; to become a bank holding company by acquiring 56.8 percent of the voting shares of Washington State Bank, Washington, Louisiana.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Park Ridge Corporation*, Park Ridge, Illinois; to acquire 80 percent or more of the voting shares of Bank of Buffalo Grove, Buffalo Grove, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Escrow Corporation of America, Inc.*, Pennock, Minnesota; to acquire 95.64 percent of the voting shares of Citizens National Bank of Willmar, Willmar, Minnesota.

2. *Great Plains Bank Corporation*, Eureka, South Dakota; to merge with Eden Bank Holding Company, Inc., Eden, South Dakota thereby indirectly acquiring The First National Bank of Eden, Eden, South Dakota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cawker City Bancshares, Inc.*, Overland Park, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers and Merchants State Bank, Cawker City, Kansas.

Board of Governors of the Federal Reserve System, May 18, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-13777 Filed 5-22-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Health Professional Organizations; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Acting Commissioner of Food and Drugs is announcing a meeting to provide for presentations and discussion on patient drug information and diagnostic ultrasound as well as updates on other items of current interest.

DATE: The meeting will be held June 7, 1984, from 1:30 to 3:30 p.m.

ADDRESS: Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs (HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

Dated: May 17, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-13767 Filed 5-22-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 81P-0323 et al.]

Availability of Approved Variances for Sunlamp Productss

Correction

In FR Doc. 84-12712, beginning on page 20071 of the issue of Friday, May 11, 1984, make the following correction on page 20072: In the first column of the table, "83P-003" should be "83P-0003".

BILLING CODE 1505-01-M

[Docket No. 84N-0124]

Chattem, Inc., et al.; New Drug Applications; Withdrawal of Approval

Correction

In FR Doc. 84-11517, beginning on page 18356 of the issue of Monday, April 30, 1984, make the following corrections in the table on page 18357:

1. Change "Hoffman" to "Hoffmann" the seven times it appears.

2. In the first column change "01-708 Gylcine HCl Capsules" to "01-708 Glycine HCl Capsules".

3. In the first column, insert "Calcium" after "05-528 Penicillin".

4. In the second column, change "08-548 Cyclogen" to "08-543 Cyclogel".

5. In the third column, change "11–667" to "11–677".

BILLING CODE 1505-01-M

[Docket No 83D-0304]

Oral Hypoglycemic Drug Products; Availability of Guideline Labeling

Correction

In FR Doc. 84–9641, beginning on page 14441 of the issue of Wednesday April 11, 1984, make the following correction on page 14442: In the first column, eleventh line of the first full paragraph, insert "class to" after "sulfonylurea".

BILLING CODE 1505-01-M

Consumer Participation; Open Meetings

Correction

In FR Doc. 84–12714 beginning on page 20072 of the issue of Friday, May 11, 1984, make the following correction on the same page: In the second column, the last line of the seventh paragraph, change "7637" to "6737".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park Under Section 165(d)(2)(C)(iii) of the Clean Air Act.

AGENCY: Department of the Interior.

ACTION: Notice of preliminary determination under section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces the preliminary determination by the Federal Land Manager of Theodore Roosevelt National Part that a proposed source in North Dakota subject to Prevention of Significant Deterioration (PSD) of air quality requirements will not adversely affect the resources of the park. The Department of the Interior has decided as a matter of policy to invite full public discussion of the issues involved and thereafter to make a decision on the basis of the best available information. The intent of this notice is to alert interested parties to the availability of supporting documentation and to solicit comments on the preliminary determination.

DATE: Comments must be received on or before June 22, 1984.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate, if possible) to: Chief, Permit Review and Technical Support Branch, National Park Service-AIR, P.O. Box 25287, Denver, CO 80225.

Supporting Documentation: Copies of the supporting documentation are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, Room 3021, 18th and C Sts. NW., Washington, D.C.; Air and Water Quality Division, 11011 W. Sixth Avenue, Room 306, Denver, CO; and Theodore Roosevelt National Park Headquarters, Medora, ND. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air and Water Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: The PSD section of the Clean Air Act deals with a complex problem. It concerns major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain federal conservation areas ("class I areas"), set aside for their pristine air quality or other natural, scenic, recreational, or historic values vulnerable to air pollution. In this situation, the Act imposes special requirements on the proposed facilities to insure that the pollution from them will be minimal. In addition, the Act imposes special responsibilities on the managers of the federal class I areas to insure that no new facility will have an unacceptable impact on the areas' protected resources.

The Clean Air establishes several "standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. These standards or tests include, among others, National Ambient Air Quality Standards (NAAQS); PSD classes I, II, and III air pollution increments; and the "adverse impact" determination for class I areas. An explanation of the relationship among these standards or tests is particularly relevant to the action which is the subject of this notice.

In brief, NAAQS, which a proposed facility must not violate under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels acceptable for protecting the public health and national welfare. Attainment and maintenance of these NAAQS constitute one of the fundamental purposes of the Clean Air Act; all areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteriorate so as to violate them.

The two remaining standards or tests—classes I, II, and III increments and adverse impact determinations—are the primary tools of the PSD provisions which govern the permitting of proposed major new sources of pollution in clean air regions. The class I increments apply to clean air regions of the country containing areas such a national parks and wilderness areas. Under the Clean Air Act Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in federal class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The "adverse impact" determination, however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of this notice, is a site specific test which examines whether a proposed facility will in fact, unacceptably affect the resources of a class I area. If the manager of the federal class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even the facility's emissions may cause or contribute to a violation of the class I increment. In this situation, the facility must nevertheless not exceed a revised set of class I increments established by the Act. Conversely, if the Federal Land Manager determines and convinces the permitting authority that a proposed facility will adversely affect the class I area even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact determination is a critical test for a proposed facility desiring to locate near a class I national park or wilderness area.

The action which is the subject of today's notice concerns Theodore Roosevelt National Park (NP), a mandatory class I area. Northern Gas Products Company is proposing to locate a source in the vicinity of the class I area. The source would meet the

NAAQS, but would apparently significantly contribute to violations of the class I 24-hour increment for sulfur dioxide (SO_2). Therefore, the adverse impact determination of the Federal Land Manager may be the determining factor in the State of North Dakota's pending permit decision for the proposed facility.

Prevention of Significant Deterioration New Source Applicant

A PSD permit application has been submitted to the State of North Dakota by Northern Gas Products Company. The application is for a natural gas processing facility to be located two miles south of Rawson, McKenzie County, North Dakota. This location is approximately 20 kilometers northwest of the North Unit of Theodore Roosevelt NP.

The State of North Dakota, which has been delegated complete PSD authority, has perfomed regional scale modeling to determine the comulative air pollution concentrations in Theodore Roosevelt NP resulting from all sources subject to PSD. The results indicated the proposed source would significantly contribute to total SO_2 concentrations higher than the allowed class I 24-hour increment in only the North Unit of Theodore Roosevelt NP. A significant contribution in this case is defined as 1.0 microgram per cubic meter ($\mu g/m^3$) 3-hour average, 0.2 $\mu g/m^3$ 24-hour average, and 0.1 $\mu g/m^3$ annual average. The estimate show concentrations as high as 1.4 times the 24-hour SO_2 increment (when the proposed source makes a significant contribution). The proposed source would not significantly contribute to exceedances of the 3-hour or annual allowable SO_2 increments in any unit of the park. Also, the proposed source would not significantly impact the wilderness portion of Lostwood National Wildlife Refuge, the only other class I area in vicinity of the proposed project. Northern Gas Products has several options available for obtaining a permit. One option is requesting certification from the Federal Land Management under section 165(d)(2)(C)(iii) of the Clean Air Act that the project will have no adverse impact on the resources of Theodore Roosevelt NP even though the maximum allowable 24-hour class I SO_2 increment will be exceeded. Other options include reducing emissions of choosing a site more distant from the park, such that the source would not significantly contribute to the 24-hour increment exceedance. Northern Gas Products has chosen to request Federal Land Manager's certification from the Department of the Interior.

Adverse Impact Decision

The Federal Land Manager considers that any effects on resources in class I areas caused by air pollutants that:

1. Diminish the national significance of the area;
2. Impair the structure and functioning of ecosystems; and/or
3. Impair the quality of visitor experience constitute an unacceptable adverse impact. See Senate Report No. 127, 95th Congress, 1st Session 35–36 (1977). Consequently, if a proposed new source will have an adverse impact on the air quality related values of a class I area, the Federal Land Manager will not issue the certification under section 165(d)(2)(C)(iii) of the Clean Air Act. The effects that meet the three criteria for adverse impact listed above must be placed in a time, space and direction context. In order to determine whether the effects are unacceptable, and therefore adverse, a determination must be of their projected frequency, magnitude, duration, location, and reversibility. This done by answering the following questions:

1. Will the effects last long enough, occur frequently enough, and/or occur on a scale large enough to impair the structure and functioning of ecosystems in the park, impair visitor experience or diminish the national significance of the area?

2. Are the effects reversible if the stress causing them is removed from the area?

In order to answer the questions relevant to the adverse impact determination for Theodore Roosevelt NP, the Federal Land Manager took the following steps:

1. Plant and animal species lists for the park were reviewed to identify sensitive species, dominant species, bioindicator species, and rare and endangered species sensitive to the presence of sulfur dioxide, particulate matter, ozone, and acid precipitation.

2. The sensitivity/effects literature was examined for known effects on these species at concentrations predicted to occur in the park.

3. Soil types and historic structures were screened in a similar way.

4. A visibility analysis was conducted to determine (a) plume perceptibility and (b) reduction in visual range (i.e., regional haze).

5. Data from lichen studies conducted in the park and from a 1982 field trip conducted to look for existing injury symptoms on Air Quality Related Values (AQRVs) was utilized.

6. A sulfur baseline study which anayzed the sulfur content of dominant and indicator plant species was conducted.

Findings and Determination

The findings of the Federal Land Manager's review of Northern Gas Products Company's proposed facility are as follows:

1. Emissions from the proposed project alone should not cause a perceptible plume in the class I area. An estimate of the effect of the proposed emissions on visibility indicates that there would be no perceptible change in visual air quality in the South Unit and, that in the North Unit a 7 percent reduction in standard visual range could occur, but infrequently (about once in 100 years).

2. Plant and animal species known to be sensitive to low levels of SO_2, ozone, and particulate matter, i.e., AQRVs, are present in Theodore Roosevelt NP. Pollutant levels predicted to occur from all increment consuming sources appear to be below the threshold values for adverse effects.

3. Soils in the park are buffered and are therefore unlikely to be affected by acidic rainfall events. Similarly, the streams, ponds, and rivers are also unlikely to be affected.

4. A field evaluation of sensitive species in the park found no symptoms of visible injury due to ambient air pollution.

5. Many factors exist in this analysis that tend to overpredict effects on AQRVs (i.e., the actual impact on the resources from the proposed sources will probably be even less than the analysis assumes).

6. The only effects predicted in Theodore Roosevelt NP are a potential increase in sulfur content in lichens and the potential for very infrequent limited perceptible visibility impairment.

7. The review indicates that predicted SO_2 concentrations are not of sufficient magnitude to diminish the roles of lichens in the park. Thus, it does not appear that the structure and functioning of ecosystems would be impaired, nor would there be any impairment to the visitor experience, or diminution of the national significance of the park.

Based on the above findings, and the overall analysis, the Federal Land Manager concludes that the proposed Northern Gas Products Company source would not cause an unacceptable, adverse impact on the natural resources of Theodore Roosevelt NP.

These findings and review are based on emissions as proposed by the applicant. However, we do not consider the proposed emission control

technology as best available control technology (BACT). The Federal Land Manager will recommend to the permitting agency, the North Dakota State Department of Health, that a Claus sulfur recovery unit (Claus) with treatment of tail gas by a Shell Claus off-gas treating (SCOT) unit be utilized on this project as BACT. This recommendation is made for the following reasons:

1. The use of SCOT would reduce SO_2 emissions by 939 tons per year, or 86 percent over the SO_2 control technology proposed by Northern Gas Products Company;

2. SCOT is proven technology and is required by permitting authorities in other areas of the country;

3. We believe the cost of employing SCOT (an addition of $1,579/ton of additional SO_2 removed) should be weighed against the project's proximity to Theodore Roosevelt National Park, a mandatory class I area. One of the primary purposes of the PSD requirements established by Congress is to preserve, protect, and enhance the air quality in national parks. Because we are approaching threshold limits for adverse effects in the park, as much of the increment as possible should be preserved or recovered, so that there will be opportunities for future growth and certification requests;

4. The proposed project would significantly contribute to class I increment violations in Theodore Roosevelt National Park. Use of SCOT would reduce Northern Gas Products contributions in the park below the significance level;

5. The SO_2 concentrations in the park are approaching threshold limits for adverse effects on sensitive park resources. Although the threshold limits have not yet been reached, we do not want to reach an adverse impact level;

6. Minimizing emissions will reduce the potential for cumulative effects of acid deposition thereby minimizing the potential for future adverse impacts;

7. More industrial development may be accommodated before the potential adverse effects would prevent further development if more stringent controls are required on each new source.

The conclusion reached in this review should not be extrapolated to any future permit applications in the vicinity of Theodore Roosevelt NP.

Each future application must be reviewed on a case-by-case basis, because a source's emission parameters, such as stack height, gas temperature, and geographic location, determine its interaction with other sources and hence, the potential for effects. New applicants must demonstrate to the Federal Land Manager's satisfaction that the proposed source will not cause or contribute to an adverse impact on the resources of Theodore Roosevelt NP.

Interested parties are invited to comment on this preliminary determination. Comments should be confined to the issue of whether the air quality related values of Theodore Roosevelt NP would be adversely affected by the proposed source. Comments on other aspects should be directed to the State when the State announces a public comment period on the permit approval.

Dated: May 11, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park.

[FR Doc. 84-13825 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

Colorado; Proposed Reinstatements

Notice is hereby given that a petition for reinstatement of oil and gas leases C-19470, C-22901, C-24621, and C-25865 for lands in San Miguel County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from December 1, 1983, the date of termination.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessees have paid the required $500 administrative fee for each lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective December 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Barbara Benz of the Colorado State Office at (303) 844-5551.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 84-13762 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-JB-M

Meeting and Tour of the Idaho Falls District Grazing Advisory Board

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting and tour of the Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Thursday, June 28, 1984. Notice of this meeting is in accordance with Pub. L. 92-463. The tour will leave at 9 a.m. from the Idaho Falls BLM Office, 940 Lincoln Road in Idaho Falls. The meeting and tour is open to the public; public comments on agenda items will be accepted from 9:50 to 10:20 a.m. at the Lamplighter Restaurant, 119 S. Bridge, St. Anthony, Idaho.

Agenda items for the meeting include:

1. Presentation of Cooperative Management Agreements to Cinder Cone and Jumpoff Allotment permittees.

2. Update on status of 9th Circuit Court decision and moratorium on herbacide application.

3. Update on status of Advisory Board fund transfer from Burley to Idaho Falls District.

4. Review of Advisory Board funds and project requests.

The meeting will include a tour and discussion of rangeland management practices in the Medicine Lodge Resource Area and events commemorating the 50th Anniversary of passage of the Taylor Grazing Act.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) at least 30 days after the meeting.

Dated: May 15, 1984.

O'dell A. Frandsen,

District Manager

[FR Doc. 84-13763 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Noncompetitive Sale; Public Lands in Elko County, Nevada

The following lands have been examined and identified as suitable for disposal by direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than fair market value. The lands will not be offered for sale until 60 days after the date of this notice:

Mount Diablo Meridian

T. 34 N., R. 55 E.,
Sec. 2, SE¼NE¼SE¼.

The above described land comprising ten (10.00) acres will be offered as a direct sale to West Inc., an adjoining landowner. All but 2.38 acres of the parcel are encumbered by highway rights-of-way. Acquisition of the parcel

by West Inc. would allow the business to obtain highway right-of-way frontage recently lost as a result of the partial relinquishment of the Highway 40 right-of-way through Elko, Nevada. Sale of the tract would eliminate from Federal ownership lands that have a high potential for unauthorized use and are difficult and uneconomic to manage.

The public lands are being offered for sale in order to facilitate land use planning in the area, and to assure land use compatibility with adjoining private lands. Topography and configuration of the lands suitable for improvement within the parcel would likely preclude any development other than that proposed by West Inc. Sale of the lands to any other party could impede the parcel's logical development in accordance with existing land use in the area. The only other adjoining landowner has indicated that he has no interest in purchasing the subject lands. If West Inc. does not purchase the parcel by August 27, 1984, then a public auction will be scheduled for September 28, 1984, using competitive bidding procedures. Should an auction be necessary, these procedures will be detailed in a sales brochure which will be sent to all interested parties prior to the scheduled auction.

The sale is consistent with the Bureau's planning system. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. The proposal has been reviewed and approved by the city of Elko.

The locatable and salable mineral estates have only nominal value and will be conveyed to the purchaser upon remittance of a $50.00 filing fee.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and gas and geothermal resources will be reserved to the U.S. Government.

And will be subject to:

1. Those rights for highway purposes which have been granted to the Nevada Department of Transportation by Permit No. CC–021059.

2. Those rights for highway purposes which have been granted to the Nevada Department of Transportation by Permit No. Nev–064983.

3. Those rights for highway purposes which have been granted to the city of Elko by Permit No. CC–021059–A.

4. Those rights granted by oil and gas lease, N–17935, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations, for the duration of oil and gas lease, N–17935, and any authorized extension of that lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. This segregation will terminate upon issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning the sale is available for review at the Elko District Office, Bureau of Land Management, 2002 Idaho Street, Elko, Nevada 89801. For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the District Manager at P.O. Box 831, Elko, Nevada 89801. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. If no action is taken by the State Director, this realty action will become a final determination of the Department of the Interior.

Rodney Harris,

District Manager.

[FR Doc. 84–13802 Filed 5–22–84; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Reclamation

Prairie Bend Unit, Nebraska, Pick-Sloan Missouri Basin Program; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, The Department of the Ingerior proposes to prepare a draft environmental statement on the Prairie Bend Unit located in central Nebraska. The feasibility study for the Prairie Bend Unit was authorized July 30, 1983, by Pub. L. 98–63 (97 Stat. 301). The stated project purposes are irrigation, stabilization of groundwater levels, water quality enhancement, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, flood control, and other purposes determined to be appropriate. The study will include an analysis of the effects the proposed action may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. Alternative water management plans that may include water impoundments will be studied with regard to consistency under the Endangered Species and the Migratory Bird Treaty Acts.

Feasibility studies were initiated in November 1983. Multiple-objective planning teams have been formed consisting of eight technical subteams: Hydrology, Water Quality, Engineering, Land Resources, Economics, Social, Environmental, and Recreation. A public values group was formed to provide identifiable entities and the general public an opportunity to identify problems, needs, and concerns and to comment on the formulated project.

This group met in February 1984 and April 1984 and will continue to meet regularly throughout the study. All of these meetings are open to the public.

The next scheduled meeting is on May 22, 1984, at 7:30 pm. in the Central Platte Natural Resources District Office, 215 North Kaufman Avenue, Grand Island, Nebraska 68801.

Technical consulting groups have been formed with representatives of groups and agencies having expertise in the various disciplines. The purposes of the consultation groups are to assure acceptance and support of methodology and technical adequacy.

The first combined Technical Consultation Group meeting will be held at the Interstate Holiday Inn, I–80 and U.S. 281, in Grand Island, Nebraska on June 6, 1984, at 10:00 a.m. and is open to the public. The purpose of this meeting is to acquaint the group with the study, introduce the planning team members, inform the group of each discipline's possible approach to the study, and seek input from the group.

The aforementioned meetings will serve as scoping sessions to identify significant environmental issues that will be evaluated and addressed in the draft environmental statement.

For further information, contact Robert Kutz, Project Manager, Nebraska-Kansas Projects Office, Bureau of Reclamation P.O. Box 1607, Grand Island, Nebraska 68802, telephone (308) 381–0716.

Dated: May 17, 1984.

Richard Atwater,

Acting Commissioner.

[FR Doc. 84-13759 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10 a.m., CDT, on Monday, June 18, 1984, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Bensz
Ms. Anna R. Carlson
Mr. R. M. Gacki
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Mr. Norman E. Tufford

Matters to be discussed at this meeting include:

1. Chairman's Quarterly Report.
2. Status of land protection.
3. Quarterly Status Report of 1984 Operations.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Dale B. Engquist, Superintendent, Indiana Dunes National Lakeshore 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: May 11, 1984.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 84-13790 Filed 5-22-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-194]

Certain Aramid Fiber; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 18, 1984, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and under 19 U.S.C. 1337a, on behalf of E.I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898. The complaint alleges unfair methods of competition and unfair acts in the importation of certain aramid fiber into the United States, or in its sale, by reason of alleged (1) production overseas by a process allegedly covered by the claims of U.S. Letters Patent 3,767,756 and (2) unfair methods of competition by misappropriation of benefits of complainant's investments in development of commercial uses and customers. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in 19 U.S.C. 1337 and 1337a and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 14, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain aramid fiber into the United States, or in its sale, by reason of alleged production of such fiber overseas by means of a process allegedly covered by the claims of U.S. Letters Patent 3,767,756, the effect of tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complaint is—

E.I. du Pont de Nemours and Company
1700 Market Street Wilmington, Delaware 19898

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

AKZO N.V., ENKA B.V., Velperweg 76, Post Bus 186, 6800 LS Arnhem, The Netherlands
Aramide Maatschappij VoF, Velperweg 76, Post Bus 60, 6800 AB Arnhem, The Netherlands
Velperweg 76, 6824 BM Arnhem, The Netherlands
Akzona, Inc., P.O. Box 1, Enka, North Carolina 28728.

(c) Victoria L. Partner, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street, NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection

during official business hours (8:45 am to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Victoria L. Partners, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1088.

Issued: May 16, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13870 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–162; Order No. 50]

Certain Cardiac Pacemakers and Components Thereof; Import Investigation

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge Paul J. Luckern as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: May 14, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84–13871 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–168]

Certain Combination Punch Press and Laser Assemblies and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Trumpf America, Inc. and Trumpf GmbH & Co.

SUPPLEMENTARY INFORMATION: This investigaton is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on May 18,1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than Jun 4, 1984. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commision, telephone 202–523–0176.

Issued: May 18, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13865 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–171]

Certain Glass Tempering Systems Including Frictionally Driven Oscillating Roller Hearth Furnaces; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Lynn I. Levine, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Juan Cockburn, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: May 11, 1984.

Respectfully submitted.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 84–13873 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–152]

Certain Plastic Food Storage Containers; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the initial determination (ID) of the Commission's presiding officer (ALJ) finding a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53–.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.53–.56) as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983).

SUPPLEMENTARY INFORMATION: On April 13, 1984, the ALJ issued an ID that there is a violation of section 337 in the unauthorized importation and sale of certain plastic food storage containers. Petitions for review of the ID were due on April 30, 1984, and none were filed. Having examined the record in this investigation, the Commission determined not to review the ID. Consequently, the ID has become the Commission's determination on violation of section 337 in this investigation.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is fourteen (14) days after publication of this notice in the **Federal Register.**

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies threrof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the ALJ. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of July 13, 1983 (48 FR 32095).

Copies of all non-confidential documents (including the non-confidential version of the ID) filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0493.

Issued: May 16, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13877 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–193]

Certain Rowing Machines and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on April 16, 1984, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Precor, Inc., 9449 151st Ave., Redmond, Washington 98052. The complaint alleges unfair methods of competition and unfair acts in the importation of certain rowing machines and components thereof into the United States, or in their sale, by reason of alleged (1) infringement of the claim of U.S. Letters Patent Des. 268,194; (2) infringement of the claim of U.S. Letters Patent Des. 268,277; and (3) infringement of the claim of U.S. Letters Patent Des. 268,278. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and a temporary cease and desist order. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 14, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, and investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain rowing machines and components thereof into the United States, or in their sale, by reason of alleged (1) infringement of the claim of U.S. Letters Patent Des. 268,194; (2) infringement of the claim of U.S. Letters Patent Des. 268,277; and (3) infringement of the claim of U.S. Letters Patent Des. 268,278, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) Pursant to § 210.24(e) of the Commission's rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on April 16, 1984, shall be forwarded to the presiding officer for an initial determination pursuant to § 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Precor, Inc., 9449 151st Avenue, Redmond, Washington 98052.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Fu Luong Traffic Parts Co., Ltd., No. 21, Lane 498, Chang Cheng Rd., Yong Kan Shiang, Tainan Hsien, Taiwan,

Meidai Traffic Parts Co., Ltd., Floor 2, No. 419, Kuang Fu So., Road, Taipei, Taiwan

Lotus Enterprise, Ltd., Room 404A, No. 47 Sec. 3, Chung Shan North Rd., Taipei, Taiwan
Pan's World Int'l., Ltd., No. 1, Room 1001, 1st Sec., Fu Hsing S. Road,Taipei, Taiwan
Pan's World International, 1201 South Edith, Alhambra, California 91802
Shinn Fu Dynacraft, 71 Maholm Street, Newark, Ohio 43055
American Sports, P.O. Box 1127, Highway 27, Havana, Florida 32333
M.T.I. Corporation, P.O. Box 190, Mena, Idaho 83434
Lotus International Corp., 26 Donald Drive, Syosset, New York 11791
MDI Sanyco Automotive U.S.A., Inc., 22113 South Vermont, Torrance, California 90502.

(c) Victoria L. Partner, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street, NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(4) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Pursuant to § 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding officer shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202/523-0471.

FOR FURTHER INFORMATION CONTACT: Victoria L. Partner, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202/523-1088.

By order of the Commission.
Issued: May 16, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-13869 Filed 5-22-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-190; Order No. 1]

Certain Softballs and Polyurethane Cores Therefor; Import Investigations

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I here by designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: May 11, 1984.

Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 84-13874 Filed 5-22-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-192]

Certain Spring Balanced Arm Lamp Heads; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 12, 1984, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Luxo Lamp Corporation, Monument Park, Port Chester, New York 10573. An amended complaint was filed on April 26, 1984. The complaint, as amended, alleges unfair methods of competition and unfair acts in the importation of certain spring balanced arm lamp heads into the United States, or in their sale, by reason of alleged (1) infringement of Luxo's common law trademark infringement rights in the appearance of the lamp heads; (2) infringement of trade dress rights; (3) false representation of source; (4) passing off; and (5) infringement of Luxo's common law trademarks "MAGNIFIER" and "COMBO." The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 14, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain spring balanced arm lamp heads into the United States, or in their sale, by reason of (1) common law trademark infringement; (2) infringement of trade dress rights; (3) false representation of source; and (4) passing off, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is Luxo Lamp Corporation, Monument Park, Port Chester, New York 10573.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sansui Industries Co. Ltd., 20-2, Lane 310, Hsin-Shu Road, Hsin Chuang City, Taipei Hsien, Taiwan and 18, Hsin Sheng N. Rd., Sec. 3, Taipei 104, Taiwan
Charming Products Corp., P.O. Box 24-505, Taipei, Taiwan
Lighting Sources, 1238 S. Ashland, Chicago, Illinois 60608
BC Imports, Inc., d/b/a BC Office Products, 260-270 Newhall Street, San Francisco, California 94102
J&D International, 16539 Saticoy, Van Nuys, California 91406

Associated Graphics, Inc., d/b/a CHANG, P.O. Box 02313, Portland, Oregon 97207
FLECO Industries, Inc., 3347 Halifax Street, Dallas, Texas 75247
Lite-Tron, 3347 Halifax, Dallas, Texas 75247
Light Fantastic of Texas, 3347 Halifax, Dallas, Texas 75247
Prestigeline Inc., Five Inez Drive, Brentwood, New York 11717
Advanced Tool Technology, Inc, 18217 Parthenia Street, Northridge, California 91325
Pay 'n Pak Stores, Inc., P.O. Box 808, Kent, Washington 98013
J. K. Gill, 5201 S.W. Westgate Drive, Portland, Oregon 97221 and 1236 S. Hatcher Avenue, City of Industry, Calif. 91748
City Electric, Inc., d/b/a City Lighting and Decor, 2250 S. Main, Salt Lake City, Utah 84115
Light World, Inc., 3428 Fondren Road, Houston, Texas 77063
Lightways, Inc., 3190 Fondren Road, Houston, Texas 77063
Lighting Resources, Inc., P.O. Box 235, Olympia Fields, Ill. 60461
Sternlite Corp., 601 W. 26th Street, New York, New York 10001
Golden H&Y Company, P.O. Box 26433, Denver, Colorado 80226
Lightning Bug Ltd., Inc., 1721 West 170th Street, Hazel Crest, Illinois 60429

(c) Gary Rinkerman, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Gary Rinkerman, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1273.

By order of the Commission.
Issued: May 16, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84–13872 Filed 5–22–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–173]

Certain Valves; Commission Review of Initial Determination and Decision Not To Add Involuntary Complainant

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review the presiding officer's initial determination (Order No. 5) (ID) that, inter alia, added Panamera A.G. as an involuntary complainant in this investigation. The Commission has reversed that portion of the ID joining Panamera A.G. as an involuntary complainant and affirmed that portion of the ID denying joinder of Gebruder Adams G.m.b.H and Horst Adams as involuntary complainants.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53(c), 210.22(a) and 210.6 of the Commission's Rules of Practice and Procedure (19 CFR 210.53(c), 210.22(a), and 210.6).

SUPPLEMENTARY INFORMATION: On March 30, 1984, respondents Vanessa S.P.A. and Valnessa Valve Corp. filed a motion (Motion No. 173–7) with the Commission seeking the joinder of Panamera A.G., Gebruder Adams G.m.b.H., and Horst Adams as involuntary complainants.

On April 10, 1984, the presiding officer issued an ID adding Panamera A.G. as an involuntary complainant in this investigation. The presiding officer also denied that portion of the motion requesting the joinder of Gebruder Adams G.m.b.H. and Horst Adams as involuntary complainants. On April 23, 1984, Clow Corp., the complainant in this investigation, filed a petition with the Commission for the review of the ID with respect to the addition of Panamera A.G. as an involuntary complainant.

Notice of this investigation was published in the **Federal Register** on November 30, 1983 (48 FR 54140).

Copies of the Commission's Action and Order, the Memorandum Opinion to be issued by the Commission in connection therewith, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verrati, Esq., Office of the General Counsel, U.S. International Trade Commission, telepone 202–523–0079.

By order of the Commission.
Issued: May 17, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84–13867 Filed 5–22–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 731–TA–155 (Final)]

Choline Chloride From Canada; Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a public hearing to be held in connection with the investigation.

EFFECTIVE DATE: April 30, 1984.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Canada of choline chloride, provided for in item 439.50 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–155 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is

materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Commission will make its final injury determination by August 27, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Woodley Timberlake (202–523–4618), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of choline chloride from Canada which were alleged to be sold at LTFV. The preliminary investigation was instituted in response to a petition filed on November 15, 1983, on behalf of Syntex Agribusiness, Inc.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on July 9, 1984, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with the investigation beginning at 10:00 a.m. on July 24, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 10, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on July 13, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 19, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on July 31, 1984.

Written Submissions

As mentioned, parties to the investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 31, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's Rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 15, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13876 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 104–TAA–21]

Cotton Yarn From Brazil; Determinations

Based on the record [1] developed in investigation No. 104–TAA–21, the Commission determines,[2] pursuant to section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), that an industry in the United States would be materially injured by reason of imports from Brazil of carded yarn wholly of cotton, provided for in items 301.01 through 301.98, inclusive, and in item 302.—with statistical suffixes 20, 22, and 24 of the Tariff Schedules of the United States Annotated (TSUSA), if the countervailing duty order covering those imports were to be revoked.

The Commission further determines [3] that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports from Brazil of combed yarn wholly of cotton, provided for in item 302.—with statistical suffixes 26 and 28 of the TSUSA, and of yarn in chief value but not wholly of cotton, provided for the TSUS item 300.60, if the countervailing duty order covering those imports were to be revoked.

Background

The outstanding countervailing duty order was issued on March 15, 1977, as a result of an investigation that was conducted by the U.S. Department of the Treasury after the American Yarn

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure.

[2] Commissioner Stern dissenting; Commissioner Liebeler not participating.

[3] Commissioner Liebeler not participating.

Spinners Association, Inc. filed a countervailing duty petition on March 5, 1976.

On July 17, 1981, the Brazilian Government requested the U.S. International Trade Commission to review the outstanding countervailing duty order under section 104(b)(1) of the act to determine whether an industry in the United States would be materially injured, or threatened with material injury, or the establishment of an industry would be materially retarded by reason of imports of cotton yarn from Brazil if the outstanding countervailing duty order applicable to such yarn were to be revoked. Accordingly, on January 18, 1984, the Commission instituted investigation No. 104–TAA–21, Cotton Yarn from Brazil.

On February 2, 1984, the American Yarn Spinners Association requested to partially withdraw the original countervailing duty petition with respect to combed yarn wholly of cotton and yarn in chief value but not wholly of cotton. This request was denied on February 16, 1984.

Notice of the institution of the Commission's investigation was given by posting copies of the notice on the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on January 25, 1984 (49 FR 3145). A public hearing in connection with the investigation was held on April 6, 1984, and the Commission voted on the investigation in public session on May 8, 1984.

The Commission transmitted its report on the investigation to the Secretary of Commerce on May 17, 1984. A public version of the Commission's report, *Cotton Yarn from Brazil* (investigation No. 104–TAA–21, USITC Publication 1530, 1984), contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: May 17, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13866 Filed 5–22–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–153 (Final)]

Hot-Rolled Carbon Steel Sheet From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: April 26, 1984.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of hot-rolled carbon steel sheet from Brazil, provided for in items 607.67 and 607.83 of the Tariff Schedules of the United States, are being sold, or are likely to be sold, in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–153 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before July 2, 1984, and the Commission will make its final injury determination by August 23, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202–523–0286), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the hot-rolled carbon steel sheet from Brazil. The preliminary investigation was instituted in response to a petition filed on November 10, 1983, by United States Steel Corp., Pittsburgh, Pa.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on July 13, 1984, purusant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on July 26, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 9, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on July 17, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 23, 1984.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 2, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has

not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 2, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 16, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13868 Filed 5-22-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 303-TA-15, 701-TA-213 and 731-TA-184 Through 187 (Preliminary)]

Potassium Chloride From East Germany, Israel, Spain, and the U.S.S.R.; Import Investigation

Determinations

On the basis of the record [1] developed in investigation No. 303-TA-15 (Preliminary), the Commission determines,[2] pursuant to section 303(a) of the Tariff Act of 1930 (19 U.S.C. 1303), that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from Israel of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States (TSUS), upon which bounties or grants are alleged to be paid.[3]

In addition, on the basis of the record [1] developed in investigation No. 701-TA-213 (Preliminary), the Commission determines,[2] pursuant to section 701(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from Spain of potassium chloride, provided for in item 480.50 of the TSUS, upon which bounties or grants are alleged to be paid.[3]

In addition, on the basis of the record [1] developed in investigations Nos. 731-TA-184 through 187 (Preliminary), the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930, (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports from East Germany, Israel, Spain, and the U.S.S.R. of potassium chloride, provided for in item 480.50 of the TSUS, which are alleged to be sold in the United States at less than fair value (LTFV).[3]

Background

On March 30, 1984, counsel for AMEX Chemical Co., Inc. and Kerr-McGee Chemical Co. filed petitions with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured, and is threatened with material injury, by reason of imports of potassium chloride from East Germany, Israel, Spain, and the U.S.S.R. which are allegedly being sold at LTFV and imports of potassium chloride from Israel and Spain upon which bounties or grants are alleged to be paid. Accordingly, the Commission instituted preliminary investigations under the Tariff Act of 1930.

Notice of the institution of the Commission's investigations and of a conference to be held in connection theerewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on April 6, 1984 (49 FR 137 53). The conference was held in Washington, D.C. on April 24, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigations to the Secretary of Commerce on May 14, 1984. A public version of the Commission's report, Potassium Chloride from East Germany, Israel, Spain, and the U.S.S.R. (investigations Nos. 303-TA-15, 701-TA-231, 731-TA-184 through 187 (Preliminary), USITC Publication 1529, 1984) contains the views of the Commission and information developed during the investigations.

By order of the Commission.

Issued: May 14, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13875 Filed 5-22-84; 8:45 am]

BILLING CODE 7020-02-M

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[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Liebeler and Stern not participating.

[3] Commissioner Haggart determines that there is a reasonable indication of material injury and therefore does not reach the issue of reasonable indication of threat of material injury.

INTERSTATE COMMERCE COMMISSION

[Finance Docket Nos. 29720 and 29772; Sub-No. 1]

Guilford Transportation Industries, Inc.; Control Boston and Maine Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343, (a) the lease and operations by Twin State Railroad Corporation of a line of railroad of Maine Central Railway Company between St. Johnsbury, VT and Whitefield, NH and (b) the control of Twin State Railroad Corporation by Northern Vermont Corporation. The Commission also exempts from the requirements of 49 U.S.C. 11301, (a) the issuance of capital stock by Twin State Railroad Corporation to Northern Vermont Corporation and (b) the issuance by Twin State Railroad Corporation of a note for a loan to institute operations over the aforementioned line or railroad.

DATES: These exemption will be effective on May 23, 1984. Petitions to reopen must be filed by June 12, 1984.

ADDRESSES: Send Pleadings referring to Finance Docket Nos. 29720 (Sub-No. 1) and 29772 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioners' representatives:
Robert A. Gensburg, 101 Eastern Avenue, P.O. Box 189, St. Johnsbury, VT 05819
James E. Howard, 1500 Oliver

Building, Pittsburgh, PA 15222

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: May 16, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–13784 Filed 5–22–84: 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30468]

The Huntsville and Madison County Railroad Corporation; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts The Huntsville and Madison County Railroad Corporation from the provisions of 49 U.S.C. 11301 in connection with a capital stock issuance not to exceed $1,000,000.

DATES: This exemption is effective on May 22, 1984. Petitions to reopen must be filed by June 11, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30468 to:Q02

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative:
William P. Jackson, Jr., P.O. Box 1240 Arlington, VA 22210

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800) 424–5403.

Decided: May 16, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–13783 Filed 5–22–84: 8:45 am]

BILLING CODE 7035–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–53]

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 item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by June 4, 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, D.C. 20546. Kenneth Allen, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:
Carl F. Steinmetz, NASA Agency Clearance Officer, (202) 453–2941.

Reports

TITLE: Report of Government-Owned/Contractor-Held Property

Type of Request: Reinstatement of a previously approved collection for which approval has expired

Frequency of Report: Annual

Type of Respondent: Businesses or other for profit, small businesses or organizations

Annual Reporting Hours: 11,000

Abstract-Need/Users: The contract form and recordkeeping are required to provide necessary data on an annual basis to reconcile NASA's property accounts, from which internal management and external information reports are derived.

Title: DoD Industrial Plant Equipment Requisition (NASA Use)

Type of Request: Reinstatement of a previously approved collection for which approval has expired

Freguency of Report: On occasion

Type of Respondent: Businesses or other for profit, non-profit institutions

Annual Reporting Hours: 34

Abstract-Needs/Users: The DoD Form 1419 provides a standard format and procedure by both NASA and DoD for obtaining, certifying, and acting upon contractor requirements for Government equipment.

L. W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 84–13751 Filed 5–22–84: 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Design Arts 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 (Fellowships Section) to the National Council on the Arts will be held on June 12–13, 1984 from 9:00 a.m.–5:30 p.m. and on June 14, 1984 from 9:00 a.m.–4:00 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 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 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, DC 20506, or call 202/682–5433.

Dated: May 16, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-13808 Filed 5-22-84; 8:45 am]

BILLING CODE 7537-01-M

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Fellowship for Translators Section) to the National Council on the Arts will be held on June 7, 1984 from 9:00-6:00 p.m. and on June 8, 1984 from 9:00 a.m.-12:00 noon in room 715 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on June 8 from 9:00 a.m.-10:30 p.m. for Policy Discussion.

The remaining sessions of this meeting on June 7 from 9:00 a.m-6:00 p.m. and on June 8 from 10:30-12:00 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public prusuant 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, DC 20506, or call (202) 682-5433.

Dated: May 16, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-13807 Filed 5-22-84; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committree Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on June 15, 1984, from 9:00 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 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 with the determination of the Chairman published in the **Federal Register** of February 13, 1980, 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 obtrained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 16, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-13809 Filed 5-22-84; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Date Change

The ACRS Subcommittee on Emergency Core Cooling Systems scheduled for June 6, 1984 has been changed to *Monday, June 4, 1984—8:30 a.m. until the conclusion of business*—Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review portions of the NRC Safety Research Program for the ACRS Report to the Commission of the FY 1986 budget.

All other items regarding this meeting remain the same as announced in the Federal Register published Wednesday, May 16, 1984 (49 FR 20768).

Further information regarding topics to be discused, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: May 18, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-13863 Filed 5-22-84; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2131]

Louisiana; Declaration of Disaster Loan Area

Bienville Parish in the State of Louisiana constitutes a disaster area because of damage caused by a tornado on May 2, 1984. Applications for loans for physical damage may be filed until the close of business on July 16, 1984, and for economic injury until the close of business on February 18, 1985, at the address listed below:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

Or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 213112 for physical damage and for economic injury the number is 616600

(Catalog of Federal Domistic Assistance Progam Nos. 59002 and 59008)

Dated: May 16, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-13853 Filed 5-22-84; 8:45 am]

BILLING CODE 8025-01-M

First American Capital Funding, Inc.; Issuance of a License To Operate as a Small Business Investment Company

[License No. 09/09-5332]

On January 20, 1984, a notice was published in the **Federal Register** (Vol. 48, No. 2572), stating that First American Capital Funding, Inc. located at 18662 MacArthur Boulevard, Suite 400, Irvine, California 92715, had filed an application with the Small Business Administration pursuant to (13 CFR 107.102) (1984), for a license as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on February 4, 1984, and no significant comments were received.

Notice is hereby given that considering the application and other pertinent information, SBA has issued License No. 09/09–5332 to First American Capital Funding, Inc., on May 2, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–13856 Filed 5–22–84; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0342]

GC & H Partners; Issuance of a License To Operate as a Small Business Investment Company

On March 16, 1983, a notice was published in the **Federal Register** (49 FR 9990), stating that GC & H Partners located at One Maritime Plaza, 20th Floor, San Francisco, California 94111, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on March 31, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 09/09–0342 to GC & H Partners, on April 30, 1984.

Dated: May 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–13857 Filed 5–22–84; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0469]

Genesee Funding, Inc.; Application for a License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the SBA Regulations governing small business investment companies [13 CFR 107.102 (1983)] under the name of Genesee Funding Inc., Suite 1010 Alliance Bldg. East Main Street, Rochester, New York 14604 for a License to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers and directors and stockholders are as follows:

		Percent
A. Keene Bolton, 411 Antlers Drive, Rochester, New York 14610.	President and director	43
James C. Galloway, 54 Knollbrook Road, Rochester, New York 14620.	Vice President and director.	3
Ronald B. Klineman, 22 Woodmont Road, Rochester, New York 14620.	Secretary and director.	4
Melvin H. Damon, 46 Greylocke Ridge, Pittsford, New York 14534.	Director	4
Ronald E. Follanshee, 70 Ramblewood Drive, North Chili, New York 14514.	....do	3

The remaining unissued stock will be sold to accredited investors and are unknown at this time.

The Applicant which is a New York Corporation, proposes to commence operations with private capital of $500,000 and intends to emphasize equity investments or other securities of small business concerns principally in the New York State area and other areas within the United States.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 16, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–13855 Filed 5–22–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2135]

Kentucky; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Floyd, Whitley, Laurel, Knott, Pike, Perry, Breathitt, Magoffin, Letcher, Bell, Leslie, Martin, Knox, and Clay in the State of Kentucky constitute a disaster loan area because of damage from high winds, tornadoes, and flooding beginning on or about May 6, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 16, 1984, and for economic injury until February 15, 1985, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 213506 for physical damage and for economic injury the number is 617000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 17, 1984.

Dean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–13852 Filed 5–22–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2134]

West Virginia: Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the County of Mingo and the adjacent Counties of McDowell, Logan, and Wayne in the State of West Virginia constitute a disaster loan area because of damage from heavy rains, flooding, and landslides which occurred on May 3–9, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 16, 1984, and for economic injury until February 15, 1985, at: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring Street,

SW., Suite 822, Atlanta, Georgia 30303, or other locally announced location.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 213406 for physical damage and for economic injury the number is 616900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-13851 Filed 5-22-84; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The Small Business Administration, Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 10:30 a.m., on Thursday, June 21, 1984 at the Fu Ling Restaurant, 970 North Broadway, Los Angeles, California 90012, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call M. Hawley Smith, Acting District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite #600, Los Angeles, California 90071; Telephone No. (213) 688-2977.

Dated: May 14, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-13851 Filed 5-22-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Notice 84-7]

Controlled Admittance to DOT Headquarters Buildings

AGENCY: Department of Transportation (DOT), Office of the Secretary

ACTION: Notice.

DATE: The new admittance procedures take effect June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Lloyd Glassbrook, Chief, Security Staff, M-441, Department of Transportation, Washington, DC 20590; 202-426-4677.

SUPPLEMENTARY INFORMATION: DOT has three headquarters buildings in Washington, DC: the Department of Transportation Headquarters Building at 400 Seventh Street, SW; United States Coast Guard Headquarters (Transpoint) Building at 2100 Second Street, SW; and Federal Office Building 10A at 800 Independence Avenue, SW. After May 31, 1984, a visitor to any of these buildings who is not an employee of the Federal Government should make prior arrangements with the activity that he/she plans to visit. An unscheduled visitor will not be admitted to any of these buildings until the Security office obtains approval from the activity to be visited.

Please note the following important points:

1. Persons other than Federal employees will be admitted to these buildings only at designated visitor control points.

2. Anyone making a delivery of material (such as docket comments or bids or proposals) that must be received before a specific deadline should allow adequate time for gaining access to the building. Filing deadlines will not be extended for this purpose.

3. These new procedures govern admittance to all offices in the headquarters buildings. This includes commercial establishments, doctor's offices, and other Federal agencies.

Issued in Washington, DC on May 15, 1984.

Ronald D. Keefer,

Director of Administrative Operations.

[FR Doc. 84-13879 Filed 5-22-84; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

[Docket No. IP84-7; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance with Vehicle Identification Regulation

General Motors Corporation of Warren, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

GM has determined that 8 of its 1983 Cadillac de Ville/Fleetwood passenger cars have a VIN consisting of 15 characters, rather than the 17 characters required by S4.2 of the standard. As there are no other vehicles with VIN's consisting of 15 characters, GM argues that the Cadillac can be easily identified if necessary for notification and remedy. The correct VIN of 17 characters does appear on the certification label of the cars concerned. Nevertheless, GM intends to provide the owners of the 8 cars with a letter informing them of the error to minimize possible difficulties with State registration. The National Auto Theft Bureau will also be informed.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation, described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson.

Comment closing date: June 22, 1984.

(Sec. 102, Pub. L. 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50. and 49 CFR 501.8)

Issued on May 17, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-13864 Filed 5-22-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public

information collection requirement(s) to OMB (listed by submitting bureau), 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 to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

OMB Number: 1545–0802
Form Number: NA
Type of Review: New
Title: IRS Taxpayer Survey

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: May 15, 1984.

Joseph A. Donahue,

Departmental Reports, Management Office.

[FR Doc. 84-13752 Filed 5-22-84; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Dept. Cir. Public Debt Series No. 15–84]

Treasury Notes of May 31, 1986; Series U–1986

Washington, May 17, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,250,000,000 of United States securities, designated Treasury Notes of May 31, 1986, Series U–1986 (CUSIP No. 912827 QV 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securites may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated May 31, 1984, and will bear interest from that date, payable on a semiannual basis on November 30, 1984, and each subsequent 6 months on May 31 and November 30 until the principal becomes payable. They will mature May 31, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $1000,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving Time, Wednesday, May 23, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 22, 1984, and received no later than Thursday, May 31, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000. and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each

competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Thursday, May 31, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, May 29, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, May 31, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisons

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-13883 Filed 5-22-84; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). This document contains an extension, and a one-time collection and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-6880.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 17, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Medicine and Surgery.
2. Report of State Home Construction Project Planning.
3. VA Form 10–1493.
4. On occasion, annually.
5. State or local governments.
6. 40 responses.
7. 80 hours.
8. Not applicable.

One-Time Collection

1. Department of Medicine and Surgery.
2. VA User Fee and Travel Payment Survey.
3. VA Form 10–20768(NR).
4. Reporting Requirement.
5. Individuals or households.
6. 1530 responses.
7. 255.2 hours.
8. Not applicable.

[FR Doc. 84–13770 Filed 5–22–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 101
Wednesday, May 23, 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).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:30 a.m. on Thursday, May 17, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to provide financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act, to Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideratin of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the FDIC New York Regional Office located at 345 Park Avenue, 21st Floor, New York, New York.

Dated: May 18, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-13920 Filed 5-21-84; 11:37 am]

BILLING CODE 6714-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-23]

TIME AND DATE: 10:00 a.m., Thursday, May 31, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701-TA-205, -206, and -207 [Preliminary] (Certain Carbon Steel Products from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary,* (202) 523-0161.

[FR Doc. 84-13878 Filed 5-18-84; 5:05 pm]

BILLING CODE 7020-02-M

3

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, June 6, 1984.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of May, 1984.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

DATE OF NOTICE: May 16, 1984.

Rowland K. Quinn, Jr.,

Executive Secretary, National Mediation Board.

[FR Doc. 84-13921 Filed 5-21-84; 11:37 am]

BILLING CODE 7550-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-19]

TIME AND DATE: 9 a.m., Wednesday, May 30, 1984.

PLACE: NTSB Board Room, 8th Floor 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Flying Tigers, Inc., McDonnell-Douglas DC-8-63, N797FT, Chambers Field, Norfolk, Virginia, October 25, 1983.
2. *Recommendation* to the Executive Director, Department of Defense Committee on Federal Aviation regarding the need for runway assessment and reporting at joint military/civilian use airports.
3. *Aircraft Accidents Report.*—Midair Collison, McDonnell-Douglas F-4C, Beech D-55 Baron, near Cherry Point, North Carolina, January 9, 1983.
4. *Pipeline Accident Report.*—Washington Gas Light Company, Herndon Gage Station Explosion and Fire, Fairfax County, Virginia, October 13, 1983, and *Recommendations* to the Washington Gas Light Company and the American Gas Association.
5. *Recommendation* to the Federal Aviation Administration concerning Stall Avoidance System on Swearingen SA-226 and SA-227 airplanes.
6. *Recommendation* to the Federal Aviation Administration regarding air traffic control personnel, procedures, and equipment at the Miami Air Route Traffic Control Center and within the National Airspace System en route environment.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

May 21, 1984.

[FR Doc. 84-13936 Filed 5-21-84; 12:25 pm]

BILLING CODE 4910-58-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 21, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, May 22

10:00 a.m.

Discussion of Shoreham Certified Question (Closed—Ex. 10) (As Announced)
2:00 p.m.
Discussion of Proposed Rule on Backfitting (Public Meeting) (As Announced)

Wednesday, May 23

10:00 a.m.
Discussion of Completed TMI Investigations (Public Meeting) (As Announced)
11:00 a.m.
Discussion of Incomplete TMI Investigations (Closed—Ex. 5 & 7) (New Item)
2:00 p.m.
Staff Briefing on Impact of Remaining TMI Investigation Reports and Position on Management (Public Meeting) (TIme Change)

Thursday, May 24

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Susquehanna-2 (Public Meeting) (As Announced)

Friday, May 25

10:00 a.m.
Continuation of 4/24 Discussion on Possible Steps to Avoid Licensing Delays (Public Meeting) (As Announced)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (Item Change)
a. Draft TMI-1 Management Order (Tentative)
b. Final Rule Abolishing Position of Appeal Panel Vice Chairman

ADDITIONAL INFORMATION: Continuation of Review of Shoreham Order was held on May 16 (closed—Ex. 10). Affirmation of Shoreham Order was held on May 16, (Public Meeting).

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)— (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: May 18, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-13981 Filed 5-21-84; 3:49 pm]

BILLING CODE 7590-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of May 28, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, May 29

2:00 p.m.
Discussion of Role of the Staff/Ex Parte (Public Meeting) (Postponed from Thursday, May 24)

Wednesday, May 30

11:00 a.m.
Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)
2:00 p.m.
Dicussion of Appendix R (Fire Protection) (Public Meeting)

Thursday, May 31

10:00 a.m.
Discussion of Security Plan for Research Reactors (Public Meeting)
2:00 p.m.
Dicussion/Possible Vote on Proposed Rule on LEU/HEU Fuel (Public Meeting)

Friday, June 1

2:00 p.m.
DOE Briefing on Draft Mission Plan (Public Meeting)

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Dated: May 18, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-13982 Filed 5-21-84; 3:49 pm]

BILLING CODE 7590-01-M

Federal Register

Wednesday
May 23, 1984

Part II

Nuclear Regulatory Commission

Monthly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations; Notice

NUCLEAR REGULATORY COMMISSION

Monthly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on April 25, 1984 (49 FR 17850) through May 14, 1984.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By June 22, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirement with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so

inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Arkansas Power and Light Company, Dockets Nos. 50–313 and 50–368, Arkansas Nuclear One, Units Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: March 16, 1984.

Description of amendment request: These amendments would modify the Technical Specifications in response to the Commission's Generic Letter 83–37 dated November 1, 1983, concerning Technical Specifications related to implemented TMI Action Plan Items. The proposed changes would add Technical Specification Limiting Conditions for Operation and Surveillance Requirements for:

(1) The reactor coolant systems vents in accordance with 10 CFR 50.44(c)(3)(iii) which superseded TMI Action Plan Item II.B.1;

(2) The post-accident sampling system in accordance with TMI Action Plan Item II.B.3;

(3) The post-accident effluent monitors for radioactive iodine and particulate sampling in accordance with TMI Action Plan Item II.F.1.2;

(4) The containment high range monitors in accordance with TMI Action Plan Item II.F.1.3;

(5) The containment pressure monitors in accordance with TMI Action Plan Item II.F.1.4;

(6) The containment water level monitor in accordance with TMI Action Plan Item II.F.1.5.; and

(7) The containment hydrogen monitor in accordance with TMI Action Plan Item II.F.1.6.

In addition, the amendments would modify the Technical Specifications in response to the Commission's Generic Letter 82–16 dated September 20, 1982, related to implemented TMI Action Plan Items. The proposed changes would add Technical Specifications regarding limitation of overtime by plant staff performing safety related functions in accordance with TMI Action Plan Item I.A.1.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. These proposed Technical Specification modifications impose additional limitations, restrictions and controls and therefore fall within this example.

Therefore, since the application for amendments involves proposed changes that are similar to the example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russelville, Arkansas 72801.

Attorney for licensee: Nicolas S. Reynolds, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chiefs: John F. Stolz, James R. Miller.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachuesetts

Date of amendment request: March 20, 1984.

Description of amendment request: The details of the ASME Boiler and Pressure Vessel Code Section XI Inservice Inspection (ISI) Program would be removed from the Technical Specifications by this Amendment and placed in a controlled ISI Program document. The table in the Technical Specifications listing snubbers on the Code Class 1, 2, and 3 systems would also be removed and placed in the controlled document. The revised Technical Specifications would then allow ISI changes for Code Class systems to be made without a subsequent Technical Specification change, which conforms to the approach used in the BWR Generic Technical Specifications in the area of ISI. However, this revision would not remove the licensee's commitments to perform ISI in accordance with Section XI and to test Code Class snubbers at required intervals.

In addition, several changes in Sections 3.6 G&I and 4.6 G&I would be made to substitute "Pilgrim Station Inservice Program" for existing references, where necessary, and to change references to the 1974 Edition of the ASME Boiler and Pressure Vessel Code to the 1980 Edition, Winter 1980 addenda. Thus, the revised Technical Specifications will require conformance with changes which were made in the latter edition of the Code, which is incorporated by reference in 10 CFR 50.55a. The ISI Program for the second 10-year operating period at the Pilgrim Station incorporating these changes, is currently being reviewed by the NRC staff.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One example of an amendment that is considered not likely to involve a significant hazards consideration is "(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The proposed amendment requires changes in the ISI program for the Pilgrim Station in keeping with changes in the ASME Boiler and Pressure Vessel Code, which is incorporated by reference in the Commission's regulations (10 CFR 50.55a). These changes in ISI requirements and shifting the details of these requirements from the Technical Specifications to a separate, conrolled document are expected to have little, if any, effect on facility operations. This proposed amendment is, therefore, similar to example (vii) above and the staff proposes to determine that the

application for this amendment does not involve a significant hazards consideration.

Local Public Document Room Location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: March 27, 1984.

Description of amendment request: The amendment would revise the fire protection Technical Specifications to reflect changes made to the station in accordance with the requirements of Appendix R to 10 CFR Part 50 and National Fire Protection Association (NFPA) standards. This amendment would also remove the alternate shutdown surveillance requirements from the specifications relative to core and containment cooling systems and auxiliary electrical systems; those requirements would be included in a new section of the fire protection specification.

As part of the proposed changes, several deletions from the Technical Specifications would be made as follows:

—The subsection pertaining to the diesel generator dry chemical systems would be deleted. However, Technical Specifications would be added to another subsection for the newly-installed diesel generator preaction sprinkler system which functionally replaces the dry chemical system.

—The subsection pertaining to yard hydrants and exterior hose houses would be removed since those facilities which had been added temporarily to provide protection to two interior plant areas, have been replaced by interior fire hose stations.

—The table listing fire hose stations would be revised to account for the changes described above. Several other hose stations would also be deleted from the table since they do not provide either primary or backup fire suppression capability for safety related fire areas.

Basis for proposed no signficant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One of the examples considered not likely to involve significant hazards considerations is "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The proposed amendment is similar to example (ii) since most of the modifications proposed would add restrictions relative to NFPA standards and Appendix R requirements. The proposed deletions would simply remove specifications which applied to equipment that has been replaced or is not longer required. The removal of these items would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Having made this finding, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: March 2, 1984.

Description of amendment request: The proposed amendment would incorporate Technical Specifications in response to NRC Generic Letter No. 83–36 dated November 1, 1983. These Technical Specifications are related to NUREG–0737 itesm which have to do with monitoring of radiation releases, containment conditions and control room habitability during and following accident conditions. The Technical Specifications would impose additional limiting conditions for operation and surveillance requirements for the instrumentation for measuring the above quantities in accordance with the TMI Action Plan.

Basis for proposed no significant hazards consideration determination: Carolina Power & Light Company has reviewed this request and provided a discussion to determine that the proposed revision involve no significant hazard consideration because the proposed changes constitute additional limitations and restrictions not presently included in the Technical Specifications. The Commission staff has reviewed the application request and the above review by the licensee and finds that the Carolina Power and Light Company discussion is acceptable and that the proposed changes constitute additional limitations and restrictions not presently included in the Technical Specifications. The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazard considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14864). One of the examples of an amendment which will likely be found to involve no significant hazard considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The Commission has concluded that the proposed changes are an example of such an amendment and, therefore, the proposed changes fall within the Commission's example (ii) of an action not likely to involve a significant hazard consideration. Therefore, the Commission proposed to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2

Date of amendment request: February 7, 1984.

Description of amendment request: The amendment would modify the Technical Specifications to add a number of specifications required by the Commission in NUREG–0737 following the Three Mile Island accident and following certain system changes made at H. B. Robinson Steam Electric Plant Unit No. 2. The systems and the proposed changes to the Technical Specifications include: (1) Reactor Coolant System (RCS) Vents; (2) Nobel Gas Effluent Monitors; (3) Containment High-Range Radiation Monitor; (4) Containment Pressure Monitor; (5) Containment Water Level Monitor; and (6) Containment Hydrogen Monitor.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain example (48 FR 14870). The licensee states that the changes are similar to "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." We agree that the proposed Technical Specification adds limiting conditions of operation and surveillance requirements per the Commission request contained in Generic Letter 83-37 dated November 1, 1983. Therefore, the Commission proposes that the changes would fall into the category of a no significant hazard consideration determination.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Commonwealth Edision Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Dates of amendment request: March 19, 1984 and amended April 9, 1984.

Description of amendment request: The proposed technical specification (TS) changes request extension of the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) curves for fuel types 8DRB265L and P8DR26B5L from 30,000 to 40,000 MWd/ST and approval of higher MAPLHGR limits for P8DRB265L in the range 1250-25,000 MWd/ST.

Basis for proposed no significant hazards consideration determination: The proposed amendment requests extension of the MAPLHGR curves for fuel types 8DRB265L and P8DRB265L to a nodal burnup of 40,000 MWd/ST from the present 30,000 MWd/ST and approval of higher MAPLHGR limits for P8DRB265L in the range 1250-25,000 MWd/ST. Fuel of this type has been re-inserted into the Dresden 3 Cycle 9 core and the burnup is expected to exceed 30,000 MWd/ST by early August 1984 based on the present Dresden 3 Cycle 9 startup and operating schedule. The staff's Safety Evaluation supporting the issuance of License Amendment No. 75 for Dresden Unit 2 on April 7, 1983 supported similar requests ralating to MAPLHGR limit curves for fuel types 8DRB265L and P8DRB265L and stated that "* * * the calculations are performed according to the requirements of 10 CFR 50 Appendix K and that the MAPLHGR limits * * * satisfy the ECCS criterion specified by 10 CFR 50.46 and are acceptable." Thus, the staff proposes to determine that the requested action involves no significant hazards consideration. This proposed determination is also supported by the fact that the requested action corresponds with example (vi) of the guidance published in the **Federal Register** on April 6, 1983 (48 FR 14870), in that this is a change which either may result in some increase to the probability of consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Attorney of licensee: Robert G. Fitzgibbons, Jr., Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: Dennis M. Crutchfield.

Commonwealth Edison Company, Docket No. 50-254, Quad Cities Nuclear Power Station, Unit No. 1

Date of amendment request: February 21, 1984.

Description of amendment request: This amendment would incorporate into the Technical Specifications the results of new analyses which extend the maximum average planar linear heat generation rate (MAPLHGR) curve to exposure values of 45,000 megawatt days per short ton for four fuel types in the core during the upcoming operating cycle. This will extend the protective thermal limits on fuels of these types to higher values of planar average exposure and thereby extend the useful life of the fuel.

Basis for proposed no significant hazards consideration determination: The licensee has evaluated the proposed Technical Specification amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Quad Cities Unit 1 in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) The amendment involves restrictions on the reactor power distribution during normal operation which of itself cannot initiate an accident and therefore does not increase the probability of an accident and

(b) These restrictions on power distribution are based on a reanalysis or re-evaluation of accidents in accordance with NRC approved methods and are specifically provided to ensure that the consequences of accidents (LOCA) remain within the existing accident criteria established for Quad Cities Unit 1.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated for the same reason as (1)a. above and

(3) Involve a significant reduction in the margin of safety since the amendments are specifically intended to ensure that the 10 CFR 50.46 ECCS criteria continue to be protected during future operation.

The staff has reviewed the licensee's significant hazards consideration determination and, based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Moline Public Library, 504-17th Street, Illinois 61265.

Attorney for licensee: Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket No. 50-254, Quad Cities Nuclear Power Station, Unit No. 1

Date of amendment request: February 28, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications for the reactor scram system. The changes would provide new limiting conditions for operation and surveillance requirements for a newly modified scram system having improved reliability. The modifications were implemented per an NRC Order issued on June 24, 1983. The proposed changes to the Technical Specifications are based upon the licensee's final design of its scram system and its review of model technical specifications provided as guidance by the NRC staff.

Basis for proposed no significant hazards consideration determination: The licensee submittal of February 28, 1984, contained an evaluation of the proposed action, and a basis for a proposed no significant hazards consideration determination, as follows:

Subsequent to a failure of 76 of 185 control rods to fully insert at Browns Ferry Unit 3 in response to a manual scram signal, the Commission had embarked on an indepth review of the BWR control rod drive system which identified a number of design issues requiring both short and long term corrective measures. On October 1, 1980 letters were sent to all BWR licensees requesting commitments to reevaluate the present scram system and modifying it as necessary to meet both the design and performance criteria as developed by the BWR Owners Subgroup. Accordingly, a confirmatory order was written June 24, 1983 for Quad Cities Unit 1 regarding a schedule for implementation of the long term corrective actions. that Confirmatory Order also provided model technical specification changes. Based on Commonwealth Edison's final design and upon a review of the model technical specifications, Commonwealth Edison is proposing a number of changes to Appendix A of the Technical Specification for Quad Cities Unit 1 in accordance with the forementioned Confirmatory Order.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing specific examples. The examples of actions involving no significant hazards consideration include: (ii) Changes that constitute an additional limitation or restriction or control not presently within the technical specifications e.g., a more stringent surveillance requirement.

The changes proposed in this application for amendment are encompassed by this example because of the additional limitations and restrictions that will be added by this Technical Specification amendment.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, Commonwealth Edison has made a proposed determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's significant hazards consideration determination and, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Moline Public Library, 504–17th Street, Illinois 61265.

Attorney for licensee: Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago Illinois 60602.

NRC Branch Chief: Domenic B. Vassallo.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 2, 1984.

Description of amendment request: The proposed request would revise the Technical Specifications (TS) to add a Power Distribution Insertion Limit (PDIL) curve for three-loop operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making no significant hazards consideration by providing certain examples. Example (ii) of this guidance is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications such as a more stringent surveillance requirement. The addition of the PDIL curve for three-loop operation falls within this example. These additional limitations will ensure safe operation of the Haddam Neck plant during three-loop operation. The limitations ensure that the probability or consequences of a steam line break are not increased, the possibility of a new type of accident is not introduced, and previous safety margins are maintained. Based on the foregoing, the staff intends to find that this action involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 119 Broad Street Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, One Constitutional Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Units 2, Westchester County, New York

Date of amendment request: May 5, 1977, as modified February 16, 1984.

Description of amendment request: The amendment would revise the Technical Specifications to reflect provisions consistent with the appropriate Edition and Addenda of Section XI of the ASME Boiler and Pressure Vessel Code. Specifically the amendment would replace the inservice inspection requirements in Section 4.2 of the Technical Specifications with a commitment to an inservice inspection program as specified in 10 CFR 50.55a. The request for this amendment was initially noticed October 27, 1983 (48 FR 49713). The February 16, 1984 modification to the amendment request is necessary due to changes in the periodic updating schedule contained in 10 CFR 50.55a since the submittal of the initial request.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of these examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. Since the proposed change involves additional commitments to inservice inspection not currently in the Technical Specifications, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: April 10, 1984.

Description of amendment request: The proposed amendment would provide changes to the technical specifications: (1) To add a limiting condition for operation for new 480 volt distribution buses that provide class 1E power for the new HVAC system and future class 1E loads, and (2) reflect the redistribution of certain motor control centers to the new 480 volt buses to reduce the electrical loads on existing buses.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of action not likely to involve no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes

proposed in the application for amendment are encompassed by this example since the requested action would result in an additional limitation. The NRC staff, therefore, proposes to determine that the requested action would involve no significant hazards consideration determination in that it: (1) Does not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) does not involve a significant reduction in a margin of safety.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: March 21, 1984.

Description of amendment request: The proposed amendment would add a new requirement regarding the minimum amount of shutdown condenser cooling water kept on-site for immediate use. This water would be used in the event that the Mississippi River level dropped below the level of the plant intakes.

Basis for proposed no significant hazards consideration determination: The proposed change resulted from the Systematic Evaluation Program (SEP) review of the La Crosse Boiling Water Reactor. SEP Topic II.3.C Safety-related Water Supply (Ultimate Heat Sink), evaluated onsite water sources to ensure that adequate means exists to safely shut down and cool the reactor core in the event normal access to with the Ultimate Heat Sink (Mississippi River) is lost due to either high or low water level.

The La Crosse Integrated Plant Safety Assessment Report, NUREG–0827 concluded that cooling water would be lost due to low river level. The licensee states that the proposed technical specification will ensure that enough water is stored on-site to provide short-term cooling until longer-term cooling water systems can be put into operation.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change that constitutes an additional restriction or control not presently included in the Technical Specifications. The staff proposes to conclude that the proposed change described above would be encompassed within example (ii) and, therefore, would involve a no significant hazards consideration determination.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: January 17, 1983, as supplemented on November 1 and December 16, 1983 and March 22, 1984.

Description of amendment request: This notice relates to updates of the licensee's request for amendment dated January 17, 1983, which was noticed in the **Federal Register** on October 28, 1983 (48 FR 49946). The supplemental submittals by the licensee were in response to NRC requests to incorporate certain minor revisions to ensure that the proposed Radiological Effluent Technical Specifications (RETS) meet the intent of the current staff positions and 10 CFR Part 50, Appendix I but do not detract from these additional requirements. The December 16, 1983, supplement to this amendment request also makes minor changes to make the proposed Crystal River Radiological Effluent Technical Specifications consistent with those for the plants operated by Florida Power and Light. Both utilities employ the State of Florida to perform certain portions of the radiological environmental monitoring programs. In addition, the supplemental amendment requests would relocate surveillance requirements for the newly installed high range effluent gas monitors to the effluent monitor instrumentation section of the Technical Specifications, delete the requirement to monitor milk and add additional, more appropriate requirements instead, clarify the applicability of certain isotopic limits including iodine-131 and cesium-137, add certain items to be included in the Annual Radiological Environmental Operating Report and in Special Reports and reduce the source check frequency for the mid and high range noble gas monitors. The foregoing changes reflect changes in the previously noticed request for amendment but nevertheless constitute additional requirements in terms of the existing Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. Since the proposed changes provide additional controls and restrictions not presently included in the Technical Specifications, the Commission's staff proposes to determine that the applicaiton does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Branch Chief: George W. Rivenbark, Acting.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: January 16, 1984.

Description of amendment request: This proposed amendment would add a surveillance requirement to the Crystal River Unit 3 Technical Specifications for testing control rod drive system silicon controlled rectifiers whenever the control rod drive trip breakers are tested. This change is being proposed at the Commission's request as part of the actions based on generic implications of the Salem ATWS events. This proposed change addresses Item 4.4 of Generic Letter 83–28, which was issued by the Commission on July 8, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve significant hazards considerations is a change that constitutes an additional limitation,

restriction or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement. The change proposed herein is an additional surveillance requirement requested by the Commission and is not presently included in the Technical Specifications. Accordingly, the Commission proposes to determine that this does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Branch Chief: John F. Stolz.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 24, 1984.

Description of amendment request: This proposed amendment would allow increasing the uranium-235 loading limit in the Crystal River Unit 3 spent fuel storage racks from 42.7 grams per axial centimeter (3.3 weight percent) to 46.14 grams per axial centimeter (3.5 weight percent). This minor increase in the loading limit would allow the licensee to utilize fuel which is slightly higher in uranium-235 in future fuel cycles with a slight improvement in fuel economy for operation of the facility.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed amendment represents a slight increase (0.2 percent by weight) in the spent fuel storage rack loading limit for uranium-235. This change would not result in exceeding the criteria specified by Section 9.1.2 of the Standard Review Plan. On this basis, the Commission proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Branch Chief: John F. Stolz.

Florida Power Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Unit 3 and 4, Dade County, Florida

Date of amendment request: April 2, 1984 and supplemented on April 18, 1984.

Description of amendment: The proposed license amendment request that the current Technical Specifications relating to Inservice Inspection (ISI) and Inservice Testing (IST) be revised to assure conformance with the requirements of 10 CFR 50.55a "Codes and Standards". The licensee currently has revised programs for ISI and IST being reviewed by the NRC staff for the Turkey Point Plant Units 3 and 4 second Ten-year interval. The proposed Technical Specifications are to assure the revised programs for ISI and IST are in conformance with the regulations and up to date with the periodic changes in the codes specified in 10 CFR 50.55a.

Basis for proposed no significant hazards consideration determination: The standards use to arrive at a proposed determination that a request for amendments involve no significant hazards consideration are included in the Commission's regulations, 10 CFR 50.92 which state that the operation of the facilities in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (vii) not likely to involve a significant hazards consideration is a change to make a license conform to changes in the regulations where the change results in very minor changes to facility operations clearly keeping with the regulations.

The proposed changes will result in minor changes to the plant operation. The proposed change are in accordance with the Standard Technical Specifications for Westinghouse Pressurized Water Reactors which will assure updating to the periodic changes in the Codes and requirements identified in 10 CFR 50.55a for ISI and IST programs.

10 CFR 50.55a(g)(4) requires that components which are classified ASME Code Class 1, Class 2 and Class 3 shall meet the requirements set forth in Section XI of the edition of the ASME Boiler and Pressure Vessel Code and Addenda that are incorporated by reference in paragraph (b) of that section.

10 CFR 50.55a(g)(11) requires a technical specification change if the revised inservice inspection program conflicts with the technical specification. This is the case for Turkey Point Units 3 and 4 for inservice inspection and inservice testing.

The staff proposes to determine that the application does not involve a significant hazards consideration since it does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety and the proposed change have falls within the Commission's example (vii) of actions not likely to involve significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW., Suite 1224, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: November 24, 1983.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to resolve aspects of multiplant action item B–24, Venting and Purging Containment While at Full Power. Of the numerous changes involved, only the addition of TS 3.1.4 to limit primary coolant activity is covered by this notice. The other changes will be the subject of a future notice.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction or control not presently included in the TSs (Example (ii)). TS 3.1.4 adds limitations on reactor coolant specific activity not presently included in the TSs. Thus, the Commission proposes to determine that this TS change falls within Commission Example (ii) and does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: G. F. Trowbridge, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 29, 1978, as revised on November 5, 1981 and March 16, 1984.

Description of amendment request: This submittal is a revision to the Iowa Electric Light and Power Company's (licensee's) requests for Duane Arnold Energy Center (DAEC) Technical Specification amendments dated August 29, 1978 and November 5, 1981, noticed in the monthly **Federal Register** on October 26, 1983 (48 FR 49588). In those requests the licensee requested the following changes to the DAEC Technical Specifications:

1. A revision to the containment airlock testing frequency;
2. Addition of a flange "O"-ring to penetration no. 213;
3. Deletion of several valves from the Table 3.7–2 for type C testing;
4. Addition of several valves to Table 3.7–2 for type C testing; and
5. Testing of certain valves in the reverse direction of the applied pressure.

By a letter dated March 16, 1984 the licensee proposed to delete certain Techical Specification changes regarding type C testing relief requested in the previous submittals. The licensee states that as a result of the Commission's January 17, 1984 approval of certain exemptions from the requirements of 10 CFR 50, Appendix J, some of the previously requested exemptions for testing of some valves have been deleted. The valves deleted from the exemption request will now be included in Table 3.7–2 of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

The proposed inclusion of the valves to Table 3.7–2 of the Technical Specifications for the type C testing constitutes an additional limitation, restriction, or control encompassed by the above cited Commission's example, because restrictions would be added to conform to the Commission's Rules and Regulations which ensure that systems and components which penetrate the containment are tested on a regular interval and the leak-tight integrity of the primary reactor containment is ensured.

Therefore, since the application for amendment involves proposed changes similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 29, 1984.

Description of amendment request: The proposed amendment requests:

(1) a revision to the Technical specifications pertaining to the following TMI Action Plan Items set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements" and as requested by the Staff's Generic Letter 83–36:

II.B.3—Post-Accident Sampling
II.F.1.1—Noble Gas Monitor
II.F.1.2—Iodine Particulate Sampling
II.F.1.3—Containment High-Range Monitor
II.F.1.4—Containment Pressure Monitor
II.F.1.5—Containment Water Level Monitor;

(2) A revision to the Technical Specifications in order to include additional fire detectors to the number presently existing in the area of the Service Water Pumps and to correct the identification numbers of two existing instruments in this area; and

(3) A change to the Technical Specifications to clarify a set point on Table 3.2.B for the Reactor Core Isolation Cooling System.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to: "(i) a purely administrative change to Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." Another example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

(1) Technical Specification changes proposed in response to TMI Action Plan Items II.B.3, II.F.1.1, II.F.1.2, II.F.1.3, II.F.1.4, and II.F.1.5 are as follows:

(a) II.B.3—Post Accident Sampling: The proposed changes establish a program which requires implementation and maintenance of a post accident sampling capability.

(b) II.F.1.1—Noble Gas Effluent Monitor: The proposed changes define the instrumentation and calibration requirements for the noble gas effluent monitors and actions required when these operational limits are not met.

(c) II.F.1.2—Sampling and Analysis of Plant Effluents: The proposed changes establish a program which requires implementation and maintenance of a post accident sampling capability.

(d) II.F.1.3—Containment High Range Monitor: The proposed changes define the instrumentation and calibration requirements for the containment high range monitor and actions required when these operational limits are not met.

(e) II.F.1.4—Containment Pressure Monitor: The proposed changes define the instrumentation and calibration

requirements for the containment pressure monitor and also actions required when these operational limits are not met.

(f) II.F.1.5—Containment Water Level Monitor: The proposed changes define the instrumentation and calibration requirements for the containment water level monitor and also actions required when these operational limits are not met.

The modifications to Technical Specifications in response to the above TMI Action Items requirements constitute additional limitations, restrictions, or controls not presently included in the CNS Technical Specifications. Therefore, the proposed changes are similar to the Commission's example (ii) above. Therefore, we propose to determine that the requested changes will not involve significant hazards considerations.

(2) The licensee proposes to revise the Technical Specifications to include four additional fire detectors to the number presently existing in the area of the Service Water Pumps. This requested change is similar to the Commission's example (ii) since it involves additional restrictions related to operability requirements of these detectors not presently included in the Technical Specifications. The licensee also proposes to correct the identification of two of the existing fire detection instruments located in the area of the Service Water Pumps. This requested change is clearly similar to the Commission's example (i) since it is purely administrative.

(3) The licensee proposes to change the Technical Specifications to clarify the meaning of a setting limit number on Table 3.2.B pertaining to the Reactor Core Isolation Cooling System Circuitry requirements. The number as currently stated is "≤−15"Hg." This would be changed to read "≤15"Hg Vacuum". Since "≤−15"Hg" means the same thing as "≤15"Hg Vacuum" this is a purely administrative change and therefore similar to the Commission's example (i).

Since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: May 22, 1980 as supplemented and clarified April 2, 1984.

Description of amendment request: The proposed amendment changes the section of the Technical Specifications pertaining to Limiting Conditions for Operations and supporting bases for the triple low reactor water level setpoint. General Electric SIL 299 "High Drywell Temperature Effect on Reactor Vessel Water Level Instrumentation" indicates that large changes in drywell temperature can result in differences between measured and actual reactor vessel water level. The licensee proposed to raise the current triple low setpoint 20 inches to conservatively account for possible differences in actual to indicated water level. Twenty inches bounds the maximum expected difference between actual to indicated water level.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The current Technical Specifications list the triple low setpoint to be 7 feet 11 inches (−30 inches indicator scale). The actual implementation is set at 6 feet 3 inches (−10 inches indicator scale). The higher triple low trip setting is more restrictive and additionally conservative since a trip would occur with less of a drop in the reactor water level. Therefore, since this change is more restrictive than the current Technical Specification limit, the change is similar to example (ii). The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 30, 1984.

Description of amendment request: The proposed amendment would revise the Technical Specifications to: (1) Make a number of miscellaneous administrative changes. These changes all may be classified as either typographical corrections, format changes, page number changes, wording clarification, or adding a basis which was not previously included. (2) Adds limiting conditions for operation and surveillance requirements for the intake structure sprinkler system. (3) Delete Operation Committee review of non-safety related procedures governing work activities of security guards. (4) Permit a one-time deviation in the integrated containment leakage rate test frequency so that testing is required before the end of the 1984 refueling outages, rather than, as currently specified, by July 8, 1984. (The current required testing will occur during the planned 1984 outage.)

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Two of these examples of guidance are: A purely administrative change to technical specifications and a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. Item (1) of the proposed amendment matches the first example and is purely administrative. Item (3) of the proposed amendment corrects the technical specifications by removing from the technical specifications non-safety related requirements. Therefore, Item (3) is also purely administrative. Administrative changes do not lend themselves to a significant hazards consideration based on the proposed amendment because the changes result in very minor changes to facility operations.

Item (2) of the proposed amendment imposes additional limitations, restrictions, or controls not previously in in the technical specifications, and therefore, matches the second example. Item (4) extends the time for performing a containment integrated leak rate test. The reactor will be in an outage of estimated eight months duration for

recirculation system piping replacement during the interval for which containment vessel integrated leak rate testing will be extended. Because of the extended shutdown, the decay heat removal requirements of the core will be significantly reduced. The technical specifications do not require containment vessel integrity during outages.

Therefore Item (4) of the proposed amendment clearly involves no significant hazards consideration, because the changes will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in margin of safety. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 2, 1984.

Description of amendment request: The proposed amendment would provide: (1) Changes to the Technical Specifications pertaining to limiting values of the Minimum Critical Power Ratio (MCPR) as a result of core reloading for Cycle 11, (2) a correction to the bases for the Technical Specifications pertaining to the Standby Liquid Control System, and (3) corrected multipliers used to calculate the limit for the average planar linear heat generation rate (APLHGR) at reduced core flows.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (iii), is a change resulting from core reloading if no fuel assemblies significantly different from those found previously acceptable to the Nuclear Regulatory Commission are used. This example is applicable to the first item in the proposed amendment since the fuel to be loaded is of the same design as fuel used the previous cycle.

Another example provided by the Commission (i), is a purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

This example is applicable to the second item in the proposed amendment because Technical Specification bases provide only an explanatory function and provide no change in restrictions.

Another example provided by the Commission (iv), is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

This example is applicable to the third item in the proposed amendment which corrects previous APLHGR multiplier values by providing new values to agree with values which had previously been reviewed and found to be within acceptable criteria with respect to the reactor core as specified in the Standard Review Plan, Section 15.4.

Therefore, for the reasons discussed above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 3, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications to add a number of specifications by the Commission in NUREG–0737 following the Three Mile Island accident and following certain system changes made at the Monticello site. The proposed changes to the Technical Specifications provide Limiting Conditions of Operation and Surveillance Requirements for post-accident sampling equipment and control room habitability equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870).

One of these examples (ii), is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications: for example a more stringent surveillance requirement. The proposed amendment matches this example in that the only changes are additional restrictions, imposed by NUREG–0737, not presently included in the Technical Specifications.

Therefore the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: December 8, 1983.

Description of amendment request: The purpose of the proposed amendment request is to make administrative changes to paragraph 2.G of the Susquehanna Facility Operating License NPF–14 in order to be consistent with NRC rule changes effective January 1, 1984. The proposed change would revise the wording of paragraph 2.G(a) from "PP&L shall report any violations of the requirements contained in Section 2, Items C(1), C(3) through C(32), and F of this license within twenty-four (24) hours by telephone and confirm by telegram, mailgram, or facsimile transmission to the NRC Regional Administrator, Region I, or designee, not later than the first working day following the violation, with written followup report within fourteen (14) working days.", to read, "PP&L shall report any violations of the

requirements contained in Section 2, Item C(1), C(3) through C(32), and F of this license within twenty-four (24) hours. Initial notification shall be made in accordance with the provision of 10 CFR 50.72 with written followup in accordance with the procedures described in 10 CFR 50.73 (b), (c), (d), and (e)." The proposed change would also delete paragraph 2.G(b) which currently reads: "PP&L shall notify the Commission, as soon as possible but not later than one hour, of any accident at this facility which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission." Based on the amended 10 CFR 50.72, the licensee proposed to delete paragraph 2.G(b) as it not longer appears to be necessary since it duplicates the reporting requirements in the rule.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (vii) of action not likely to involve a significant hazards consideration is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The staff proposes to conclude that the proposed changes in paragraph 2.G of Facility Operating License No. NPF–14 would be within example (vii), and do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident from any accident previously evaluated, and the proposed changes do not result in a significant reduction in a margin of safety. Therefore, the proposed changes are considered likely to involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: January 23, 1984.

Description of amendment request: The amendment would delete the requirement to maintain concentrated boric acid solution in the boron injection tank and delete the associated surveillance requirements. Under the proposed amendment, therefore, the boron injection tank could be bypassed, eliminated, or used with no boric acid solution in the tank.

The purpose of the boron injection tank is to provide a source of concentrated boric acid solution to be rapidly injected into the reactor coolant system in the event of a main steam line break or inadvertent opening of a safety or relief valve in the main steam line. The boric acid solution would provide shutdown reactivity to the reactor to offset the positive reactivity resulting from an uncontrolled cooldown of the reactor coolant system.

In its application dated January 23, 1984, the licensee provided a safety analysis performed by Westinghouse in support of its proposal that the boron injection tank is not needed. The analyses demonstrate that the acceptance criteria can be met with this tank bypassed, eliminated, or the boron concentration in the tank reduced to zero ppm.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples of amendment requests likely, and not likely, to involve significant hazards considerations (48 FR 14870). One of the examples of actions involving no significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The proposed amendment matches this example since deleting the boron injection tank results in some reduction in a margin of safety since reactor shutdown margin is reduced. However, the licensee shows that all acceptance criteria of the Standard Review Plan are met. Therefore the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 SW., Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: James R. Miller.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 6, 1984.

Description of amendment request: The amendment would permit the continued use of limited number of fuel assemblies which would have either three stainless steel rods or five stainless steel rods and additional grid straps in lieu of fuel rods. Normally, fuel assemblies contain 264 fuel rods. The stainless steel rods have been used in fuel assemblies in certain peripheral core locations (20 total) to prevent damage to the fuel rods caused by water impingement from the core baffle at certain locations. Following their use in these locations, the fuel assemblies with three stainless steel rods are moved into the core interior for additional use as nuclear fuel.

Apart from the proposed amendment, PGE will be repairing the reactor internals to prevent water impingement from damaging adjacent fuel rods. Therefore, no new modified fuel will be inserted into the reactor.

The amendment request would authorize PGE to use the modified fuel at eight corner locations (fuel with 5 stainless steel rods and additonal grip straps) and interior locations (fuel with three stainless steel rods). Cycle 7 would have twelve fuel assemblies with three stainless steel rods at symmetric interior locations.

The licensee's request would allow modified fuel assemblies to be used in Cycle 7 and later fuel cycles. Because the later fuel cycle details are unknown at this time, it is possible the NRC approval may be limited to fuel cycle 7 only, as was the case for fuel cycles 5 and 6.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to fuel reload amendments involving no fuel assemblies significantly different than those previously found acceptable. Fuel containing stainless steel rods and additional grid straps as described above has been previously approved by NRC for the Trojan facility in Amendment No. 75 dated July 29, 1982 and Amendment No. 82 dated July 11, 1983. In addition, previous use of fuel

with stainless steel rods has shown that it has only a small effect on core power distribution. On this basis, the NRC staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: James R. Miller.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 23, 1984.

Description of amendment request: This proposed amendment would revise Section 3.7.A.9.a of the Technical Specifications to permit the primary containment atmosphere monitoring (CAM) system to be isolated during those periods when the post-accident sampling system is being tested for operability or used for personnel training. Isolation is required in these instances because the post-accident sampling system and the CAM system utilize a common discharge line to the torus. Backflow of a potentially contaminated sample to the CAM panel would thus be prevented. Isolation of the CAM system would not exceed 3 hours in any 24-hour period and, during a calendar year, the CAM system would be out of service less than 2 percent of the time.

Basis for proposed no significant hazards consideration determination: The proposed revision permits periodic isolation of the CAM system during normal operation and does not involve any change in operating conditions or design. Therefore, no increase in the probability of an accident previously evaluated or the creation of a new or different kind of accident will result from the proposed change. Also, since no changes in any accident analysis will result from isolation of the CAM system, no increase in the consequences of any accident previously evaluated is expected to occur. The proposed change could possibly reduce the existing safety margin since the containment oxygen and hydrogen concentrations could not be monitored during those periods when the CAM system is isolated. However, the rate of change of oxygen and hydrogen concentration in the inerted containment during normal operation is very small. During the relatively brief intervals when the CAM system would be isolated, the changes in these concentrations are expected to be insignificant and therefore, no significant reduction in safety margin would result. Furthermore, the intent of the proposed change is to permit periodic operability testing of the post-accident sampling system. If this testing could not be performed, the safety margin would indeed be reduced. Consequently, to this extent the requested amendment helps to preserve the existing safety margin.

On the basis of the above, the Commission has made a proposed determination that this amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Domenic B. Vassallo.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: September 28, 1983.

Description of amendment request: In order to assure that both General Design Criterion—19 and General Design Criterion—4 (control room habitability criteria) are fulfilled, the following operational requirements have been factored into the Emergency Air Conditioning System (EACS) design: (1) During and after an accident that results in radioactive release, the EACS will be automatically triggered by high radiation signal from the Radiation Monitoring System (RMS) which will automatically isolate the control room from the outside environment by recirculating air in the control room through the charcoal and HEPA filters. (2) After ten hours of operation in the recirculation mode, a predetermined amount of outside makeup air is introduced into the control room through the charcoal and HEPA filters for a period of one hour to reduce the carbon dioxide concentration. The makeup air flow rate also functions to pressurize the control room (positive pressure) to preclude any inleakage of airborne activity through the building structure. The positive pressure is verified by Technical Specification surveillance requirement 4.7.6.1.d.3 which currently requires a positive pressure of ¼ inch water gauge (W.G.) be maintained during system testing.

The EACS and the control room enclosure were not designed to maintain a positive pressure of ¼ inch W.G. relative to outside atmosphere during system operation with makeup air being supplied through the HEPA filters and charcoal adsorbers. Although a recent pressurization test in the control room verified that the system can be operated to meet the Technical Specification requirement because of the built-in conservatism in the design calculation, success of this test was very marginal. The possibility exists that as a plant gets older (e.g. with filter bank aging) this margin will wear out. Hence, a positive pressure of ⅛ inch W.G. relative to outside atmosphere would be more realistically achievable. Therefore surveillance requirement 4.7.6.1.d.3 should be changed to read:

> Verifying that the system maintains the control room at a positive pressure of greater than or equal to ⅛ inch W.G. relative to the outside atmosphere during system operation with makeup air being supplied through the HEPA filters and charcoal adsorbers.

Basis for proposed no significant hazards consideration determination The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). One of the examples (vi) of actions involving no significant hazards considerations is a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system specified in the Standard Review Plan" for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. Standard Review Plan 6.4 states "measurements should be taken to verify that the control room is pressurized to at least ⅛ inch W.G. relative to all surrounding air spaces while applying makeup air at the design rate". Therefore, changing the position pressure from ¼ inch to ⅛ inch W.G. clearly does not reduce the acceptance criteria stated in the Standard Review Plan. Accordingly, the Commission proposes to determine that this change

does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: August 1, 1983.

Description of amendment request: The proposed license amendment would involve a Section 6 Technical Specification change which would authorize consolidation of management responsibilities. The proposed change would approve the consolidation of the position of Superintendent of Nuclear Production with the position of Superintendent of Ginna. The result would be the addition of responsibilities for corporate emergency planning to the current responsibilities of the Ginna Superintendent.

Basis for proposed no significant hazards consideration determination: The licensee maintains, and the staff agrees, that the proposed action would provide for a more effective organization by providing for direct reporting from the Station Superintendent to the responsible corporate officer, the Vice President of Electric and Steam Production and for a more direct communication with offsite support organizations. Further, the additional responsibilities added to the position of Plant Superintendent would require only a small amount of the superintendent's time (5% to 8%) and would not diminish management controls.

The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). The requested action does not fall within the scope of the examples of such actions. Thus, the bases for concluding that the no significant hazards consideration determination, as specified in 10 CFR 50.92, has been met are delineated below.

First Standard—"(1) involve a significant increase in the probability or consequences of an accident previously evaluated."

As a result of the additional responsibilities, the Superintendent will not be on site all of the time. However, the amount of time spent on these additional duties will be small. As a result the consolidation of responsibilities of the Superintendent does not affect the operation, *per se*, of the facility and will not affect the role of the Superintendent or any other individual insofar as accident mitigation is concerned. Therefore, there will be no significant increase in the probability or consequence of a previously evaluated accident if this consolidation is authorized.

Second Standard—"(2) create the possibility of a new or different kind of accident from any accident previously evaluated."

The consolidation of responsibility of the Superintendent does not alter the conformance of the Ginna management organization to the Standard Review Plan (Section 13.1.1, does not affect the operation, *per se*, of the facility and will not affect the role of the Superintendent or any other individual insofar as accident mitigation is concerned. Therefore, the possibility of an unanalyzed accident is not created if this consolidation is authorized.

Third Standard—"(3) involve a significant reduction in a margin of safety".

Only a small portion of the plant Superintendent's time will be spent off site. In addition, the fact that he will report directly to the Vice President of Electric and Steam Production will provide for better communications and thus, a more effective management structure. In addition, the consolidation does not involve any change to the plant systems hardware, technical specifications, or limiting conditions, and, therefore, will not result in a significant reduction in the margin of safety.

Because it appears that the standards of 10 CFR 50.92 would be met, the staff proposes to determine that the proposed action would involve a no significant hazards consideration determination.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: August 12, 1983. This submittal is a revision to the request for amendments dated April 15, 1983, which was noticed in the Monthly **Federal Register** Notice on September 21, 1983 (48 FR 43145).

Description of amendment request: The proposed amendment would approve changes to the technical specifications (TS) to: (1) Include the requirement to limit the amount of overtime worked by plant staff members performing safety-related functions, and (2) include the requirement that challenges to the pressurizer power operated relief valves (PORV's) or safety valves (SV's) be reported no less frequently than on an annual basis. The overtime limits would be controlled through administrative procedures. The proposed administrative procedures were included with the April 15, 1983 submittal, and modified and clarified in the August 12, 1983 submittal. In their letter of August 12, 1983, the licensee committed to submit any change in guidelines for the administrative procedures to the NRC for review.

Basis for proposed no significant hazards consideration determination: Generic Letter 82–16 requested all Pressurized Water Power Reactor licensees to review their TS to determine if they were consistent with the guidance provided with the generic letter. For items where utilities identified deviations or the absence of a specification, they were requested to submit an application for a license amendment. In response to that request, the Ginna licensee determined that there are no provisions in the TS that address plant staff overtime or the reporting of PORV or SV challenges.

The Commission has provided guidance (48 FR 14870, April 6, 1983) concerning the application of the standards in 10 CFR 50.92 by indicating certain examples of actions likely to involve no significant hazards consideration. Example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. Since staff overtime and PORV and SV challenges are not addressed in the current TS, the proposed changes fall within example (ii) and therefore, staff proposes to determine that the requested changes do not involve a significant hazards consideration in that they: (1) Do not involve significant increase in the probability or consequences of a previously evaluated accident; (2) do not create the possibility of new or different kind of accident from an accident previously evaluated; (3) do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: January 20, 1984.

Description of amendment request: The proposed amendment will: (1) Change titles of three of the management positions in Rochester Gas and Electric Corporation (RG&E); and (2) make a minor change in the organization chart to reflect a previously requested change which was reviewed and approved by the staff but was inadvertently omitted when the amendment was issued. Minor changes in title are being made; the position of Executive Vice President will become Senior Vice President, Operations; the position of Senior Vice President, Finance and Rates will become Executive Vice President, Finance and Rates; and the position of Vice President, Purchasing and Public Affairs will become Vice President, Public Affairs, Purchasing and Districts.

In addition, the dotted line indicating a "line of communication" between the Manager of Quality assurance and the Vice President, Electric and Steam Production is being added. This change was included with a previously reviewed and approved TS change. It was, however, inadvertently omitted in the issuance of Amendment No. 58.

Basis for proposed no significant hazards consideration determination: No changes in organizational structure, lines of authority, or level of management attention to the safe operation of Ginna are being made. The changes will not reduce management attention to the operation of Ginna and will not affect the health and safety of the public.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The staff proposes that the proposed changes are administrative in nature and fall within example (i). Therefore, the staff proposes to determine that the request involves no significant hazards consideration, in that: (1) It does not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: March 30, 1984.

Description of amendment request: The proposed amendment will bring the Technical Specifications (TS) into conformance with 10 CFR 50.72, 50.73, and 50.49.

Basis for proposed no significant hazards consideration determination: Section 50.72 of Title 10 of the Code of Federal Regulations was revised and became effective January 1, 1984. A new § 50.73 of Title 10 of the Code of the Federal Regulations was also added effective January 1, 1984. Section 50.72 revises the immediate notification requirements for operating nuclear power reactors. The new Section 50.73 provides for a revised Licensee Event Report System.

By Order dated October 24, 1980, the NRC added Technical Specification Section 6.14, "Environmental Qualification." This set forth certain schedule and documentation requirements regarding environmental qualification of electrical equipment. 10 CFR 50.49, which was effective June 30, 1982, provided revised schedule and documentation requirements.

Thus, the proposal would delete Section 6.14 since it has been superseded by 10 CFR 50.49.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions not likely to involve a significant hazards consideration is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The staff proposes to conclude that the proposed changes will not affected facility operations, are within example (vii) and, therefore, are considered not likely to involve a significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: July 22, 1983.

Description of amendment request: This proposed request would revise the Technical Specifications to correct the surveillance test requirements for the Auxiliary Feedwater Start Circuits. The test requirements change would require that the monthly test be on Low Main Feedwater Pressure function rather than on the Phase Imbalance/Underpower for the Reactor Coolant Pump (RCP) function.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples of actions involving no significant hazards considerations. One of the examples of actions involving no significant hazards considerations (i) relates to amendments of a purely administrative change to technical specifications, correction of an error, or a change in nomenclature.

The primary purpose of the monthly Auxiliary Feedwater Start Circuit test is to assure that the Auxiliary Feedwater Start Circuitry is functioning. The start circuitry can either be tested by utilizing the Phase Imbalance/Underpower function or the Low Main Feedwater Pressure function. Utilizing the Phase Imbalance/Underpower function for the monthly test could result in an inadvertent trip of the reactor due to the design of the circuit. By placing the monthly testing requirement on the Low Main Feedwater Pressure function, the possibility of an inadvertent trip is avoided. The license stated that due to

an error, the monthly test was placed on the Phase Imbalance/Undervoltage function rather than the Low Main Feedwater Pressure function. Since the proposed amendment would correct an error in the Technical Specifications, this is the same as the above example of an action involving no significant hazards considerations. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: December 6, 1983.

Description of amendment request: The application proposes changes to the Technical Specifications (TSs) that will increase the frequency for local leak rate testing for the containment purge valves and equalizing valves to at least once every six months.

Basis for proposed no significant hazards consideration determination: As a request of Multi-Plant Action B–24 (Containment Purge and Vent Review), the NRC requested Sacramento Municipal Utility District to propose TSs on leak rate testing. The proposed amendment would require that the containment purge valves and equalizing valves be tested every six months in order to detect possible gross degradation of the resilient valve seats. The Commission has provided guidance for determining whether proposed changes involve significant hazards considerations by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The requested action would add surveillance requirements not presently included in the license and, thus, is within the purview of this example. On this basis, the NRC staff proposes to determine that the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: The proposed amendment involves changes to the Technical Specifications to incorporate a number of NUREG-0737 items scheduled for implementation after December 31, 1981, that are not covered in the February 17, 1983 application, as supplemented by Supplement No. 2 also submitted January 23, 1984. The proposed changes add Limiting Conditions for Operation (LCOs) and Surveillance Requirements for the following instruments: (1) The Subcooling Margin Monitor; (2) the Containment Wide Range Pressure Monitor; (3) High Range Noble Gas Effluent Monitors; and (4) the Main Steam Line Radiation Monitors.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specification: For example, a more stringent surveillance requirement. All of the changes requested are additional limitations, restrictions and controls not presently included in the Technical Specifications. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

Sacramento Municipal Utility District, Docket No. 312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: January 23, 1984.

Description of amendment request: This submittal (hereinafter "Supplement 2") supplements the request for amendment dated February 17, 1983 (hereinafter "February 17, 1983 Application") which was noticed in the **Federal Register** on June 23, 1983 (48 FR 28765). The February 17, 1983 Application was to provide additional Technical Specifications for Rancho Seco. Those proposed specifications were not included in the license until August 3, 1983 when some of them were issued in Amendment No. 49 to the Facility Operating License. The licensee now requests, in Supplement 2, that the remaining proposed Technical Specifications of the February 17, 1983 Application, which have not yet been included in the Rancho Seco license, be modified in order to be consistent with the guidance provided by the NRC in Generic Letter 83–37 (dated November 1, 1983, for NUREG–0737 Technical Specifications) and to make some minor corrections for typographical errors, changed page numbers and changed item numbers. Modifications to meet the requirements of Generic Letter 83–37 include: (1) The Limiting Conditions for Operation (LCOs) for the Reactor Coolant System High Point Vents have been revised; (2) the LCO for the Post-Accident Monitoring System has been deleted; (3) the requirement for a Post-Accident Monitoring System has been added to Section 6.0; (4) the LCO for the Meteorological Instruments has been deleted; (5) the Action Statements associated with the Accident Monitoring instrument LCO have been revised; (6) the surveillance check frequency for the Containment Area High Range Monitor, the Wide Range Containment Water Level Indicator, and the Containment Hydrogen Analyzer has been changed to weekly; and (7) Surveillance Requirements have been added for the Pressurizer High Point Vent.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. In this instance, the modifications set out in Supplement 2 apply only to the proposed Technical Specifications in the February 17, 1983 Application (specifications which have never been adopted), and do not limit, restrict, or control the current Rancho Seco Technical Specifications in any way. Furthermore, the eventual

implementation of the proposed Technical Specifications (as set out in the February 17, 1983 Application and modified by Supplement 2) will provide additional controls and limitations not included in the current Technical Specifications. For these reasons, the Commission proposes to determine that the February 17, 1983 Application, as revised by Supplement 2, does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Branch Chief: George W. Rivenbark, Acting.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: November 24, 1982; October 21, 1983; February 29, 1984.

Description of amendment request: License condition 2.C.(5) would be amended to change the monitoring and inspection of the service water intake from that recommended by Regulatory Guide 1.127 to an inspection interval of every five years maximum.

Basis for proposed no significant hazards consideration determination: Regulatory Guide 1.127 recommends more frequent inspections than every 5 years initially, but then its final maximum recommended inspection interval is 5 years. The inspections performed to date have shown that there is adequate basis for commencing at this time the 5 year inspection interval. In addition, there are 4 settlement points established which are capable of monitoring both horizontal and vertical movements of the embankment.

The Commission has provided examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the structural integrity of the service water intake structure remains the same, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because there is no change being made to any component, system, or structure, or (3) involve a significant reduction in a margin of safety because the design criteria and requirements of the service water intake structure remain the same and because the scope of the inspections has not been reduced, the new interval does not exceed that recognized in Regulatory Guide 1.127, and diverse inspection data are provided by the embankment monitoring points and required post-Operating Basis Earthquake inspections. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Farifield County Library, Garden and Washington Streets, Winnsboro, South Caraolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinora G. Adensam.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of Amendment request: December 12, 1983 as supplemented March 20, 1984.

Description of amendment request: This submittal is a revision to the request for amendment dated September 12, 1979 and March 30, 1983 which was noticed in the Monthly **Federal Register** Notice on August 23, 1983 (48 FR 38422). The proposed amendment would modify the Technical Specifications to add the radiological effluent technical specifications necessary to implement the requirements of 10 CFR 50 Appendix I. The amendment provides new Technical Specification sections for the Appendix A Technical Specifications defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, concentration, dose and treatment of liquid, gaseous and solid wastes and total dose. The radiological environmental monitoring program requirements would be relocated from the Appendix B Technical Specifications to the Appendix A Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of no significant hazard consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions likely to involve no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specification: for example, a more stringent surveillance requirement.

The licensee's proposed amendment would add limiting conditions for operation and surveillance requirements not presently included in the Technical Specifications. The proposed amendment, therefore, falls within the category of the cited example and the staff proposes to determine that the amendment would involve a no significant hazards consideration determination.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocker, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800 Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, Docket Nos. 50–206/361/362, San Onofre Nuclear Generating Station, Unit No. 1, 2, and 3, San Diego County, California

Date of Amendment request: December 16, 1983 as modified April 2, 1984.

Description of amendment request: The proposed amendment would reflect the Commission's approval of Revision 1 to the August 1983 Physical Security Plan. The revised portion of the August 1983 Security Plan relates to Vital Area Reconfiguration and is being withheld from public disclosure pursuant to 10 CFR 73.21.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of no significant hazard consideration by providing certain examples (April 6, 1983, 48 FR 14870). These examples are not applicable to the proposed revision to the August 1983 Physical Security Plan. The basis for concluding that the standards are met with respect to a no significant hazards consideration determination is presented below. Each of the three standards of 10 CFR 50.92(c) is addressed.

The reconfiguration changes proposed in this revision to the Physical Security Plan may be summarized as follows: (1) Consolidation of several adjacent vital areas into a single vital area; (2) reduction in the size of several large vital areas by compression of the boundaries; and (3) a movement of

certain equipment not required for plant safety outside of the vital boundary.

First Standard

With regard to the first standard, the three proposed changes affect only the Physical Security Plan and are not related to any accident previously evaluated. Generally, these changes would make the licenses conform to changes in the Commission's regulations, where the license changes result in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes will make movement of personnel through plant areas easier and will result in a more effective security plan which does not decrease safeguards effectiveness.

Second Standard

The three proposed changes to the Physical Security Plan do not alter any safety related design bases of the facility or its operation. They therefore, do not create the possibility of a new or different kind of accident from any previously evaluated.

Third Standard

The three proposed changes to the Physical Security Plan do not affect any margin of safety.

Because the three proposed changes by the licensee appear to demonstrate that the standards in 10 CFR 50.92 have been met, the Commission proposes to determine that the application for these three changes does not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Southern California Edison Company, et al., Docket No. 50–361, San Onofre Nuclear Generating Station, Unit 2, San Diego County, California

Date of amendment request: January 17, 1984.

Description of amendment request: The proposed amendment would implement International Atomic Energy Agency (IAEA) Safeguards at Unit 2 of Southern California Edison Company, et. al's San Onofre Nuclear Generating Station (SONGS 2) (the facility) by the addition of a license condition subjecting the facility to IAEA safeguards inspections. The purpose of IAEA safeguards inspeciton is to permit the IAEA to verify that source or special fissionable material at the facility is not withdrawn (except as provided in the US/IAEA Safeguards Agreement (Agreement)) from the facility while such material is being safeguarded under the Agreement. The Agreement was ratified as a treaty on July 2, 1980. The Agreement contains provisions that parallel agreements between the IAEA and non-nuclear weapons states, the prinicipal difference being the exclusion of functional security activities.

By letter dated July 8, 1983, the licensee was informed that SONGS 2 had been identified by the IAEA under Article 39(b) of the Agreement for the application of IAEA Safeguards. Under the Agreement, the IAEA is allowed to identify the facilities (from among the list provided by the US in accordance with Article 1(b) of the Agreement) in which it wishes to apply safeguards. In the same letter, the licensee was advised that the US and the IAEA would develop a Facility Attachment in consultation with the licensee, which would define the IAEA safeguards inspection program for SONGS 2. By letter dated August 30, 1983, the licensee provided the NRC staff with a description of the SONGS 2 facility design, the nuclear material control procedures, and the accounting procedures. Using the information provided in the above letter, a draft Facility Attachment was developed in accordance with the requirements in 10 CFR Part 75 and transmitted to the licensee by letter dated November 28, 1983 for its review and comment. Part 75 provides that a Facility Attachment will be referenced in a license condition, and it authorizes the Commission to issue license amendments, as necessary, for implementation of the principal text of the Agreement and the Facility Attachment (as amended from time-to-time). On January 17, 1984, the licensee submitted an application for license amendment which would add a license condition pertaining to the IAEA safeguards inspection program. The proposed amendment, which is in response to this request, would specify through reference to the Facility Attachment:

(1) Features of the facility and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(2) Material balance areas to be used for IAEA accounting purposes and those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material;

(3) Timing and procedures for taking physical inventory of nuclear material for IAEA accounting purposes;

(4) Recording and reporting requirements and records evaluation procedures;

(5) Requirements and procedures for verification of the quality and location of nuclear material;

(6) Appropriate combinations of containment and surveillance methods and techniques at the strategic points at which they are to be applied;

(7) Loss limits and changes in containment pertaining to special reporting requirements;

(8) Actions required to be taken at the request of an IAEA inspector;

(9) Types of modifications with respect to which information is required in advance;

(10) Procedures to be used for documentation of requests pertaining to expenses; and

(11) Requirements related to the installed IAEA instruments and devices, namely, seals in the containment and surveillance cameras in the containment and in the spent fuel pool area.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance in the form of examples about the application of three standards set out in 10 CFR 50.92 for determining whether license amendments involve no significant hazards considerations (48 FR 14870). These examples are not applicable to the issues addressed in the proposed amendment. The basis for proposing that the proposed amendment does not involve a significant hazards consideration is that the IAEA safeguards inspection program and use of the equipment as part of that program (as described in the proposed amendment) are not related to any accident previously evaluated, do not alter any safety related design basis of the facility or its operation and do not affect any margin of safety. Therefore, the three standards are met because operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident, or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Attorney for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California

91770 and Orrick, Herrington & Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: December 2, 1983, supplemented January 25, 1984.

Description of amendment request: The amendments would add the following sentence to each unit's existing license condition covering fire protection; i.e., Paragraph 2.C.(14)a for Unit 2 and Paragraph 2.C(12)a for Unit 3:

> Only those deviations from the Fire Protection Plan that violate the requirements of Section III.G, III.J, and III.O of Appendix R to 10 CFR 50 and are not otherwise subject to Technical Specifications Limiting Conditions for Operation shall be reported in accordance with License Condition 2.G.

The change would remove the requirement currently in the operating licenses to report all deviations from the Fire Hazards Analysis pursuant to Item 2.G of the operating licenses. Item 2.G currently requires that the NRC be informed by telephone within 24 hours of discovery the deviation with a written confirmation no later than the first working day after discovery of the deviation, and submittal of a follow-up report within 14 days.

However, the licensees will still be required to report violations of Sections III.G III.J, and III.O of Appendix R to 10 CFR Part 50 under item 2.G of the operating licenses. Also, all reporting requirements of the Technical Specifications will remain in effect.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. One of the examples, (vi), relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. While the proposed change will relax the reporting requirements for minor deviations from the Fire Hazards Analysis, such reporting is not required by the Standard Review Plan, and is inconsistent with NRC requirements on other plants such as San Onofre Unit 3. Deviations from Sections III.G, J, and O of Appendix R will still be reportable, as well as deviations from the numerous fire protection requirements of the facility Technical Specifications. Therefore, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Library, 242 Avenida Del .Mar, San Clemente, California.

Attorney for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of amendment request: January 23, 1984.

Description of amendment request: The amendment would revise the Technical Specifications (T.S.) of the operating license to: (1) Modify the core physics, thermal and hydraulic limits to be consistent with the reanalyses associated with replacing about ⅓ of the core during the current refueling outage for Unit 3, and (2) reflect changes in various specifications as a result of plant modifications performed during the current refueling and modification outage. Specifically, the amendment would result in changes to the T.S. in the following thirteen areas:

1. Changes to the license related to the Cycle 6 core reload involving removal of depleted fuel assemblies in about one-third of the nuclear reactor core and replacement with new fuel of the same type previously loaded in the core with attendant license changes in the core protection safety limits and reactor protection system setpoints. The actual changes include a slight adjustment (by 0.01 in initial core life) in the Operating Limit Minimum Critical Power Ratio (OLMCPR), an added table on maximum average planar linear heat generation rate (MAPLHGR) versus average planar exposure, a change to the upscale flow bias rod block, and RBM upscale for core flow to 105 percent and a change to the references in the bases to reflect that TVA performed the reload transient analysis.

2. Changes in the T.S. to reflect modifications to the torus as part of the Mark I containment program. They include:

a. Revising the tables listing surveillance instrumentation for suppression pool bulk temperature reflecting the installation of 16 sensors for an improved torus temperature monitoring system and a revision to the basis for the existing limits on torus water temperature;

b. Reducing the minimum required flow for two LPCI pumps in the same loop from 15,000 gpm to 12,000 gpm as a result of the installation of an orifice plate to eliminate vibration in the RHR return line;

c. Eliminating the requirement of placing the reactor in cold shutdown and performing a torus inspection after extended operation of relief valves above a suppression pool temperature of 130°F;

d. Revise the bases to reflect changes in the torus configuration.

3. Changes to the T.S. to reflect modifications to the scram discharge volumes (SDV), and the addition of a second scram discharge instrument volume (SDIV); each of the SDIVs now have redundant vent and drain valves and new, diverse level instrumentation. The changes to the T.S. are to add operability, surveillance and calibration requirements on the new level instrumentation and valves.

4. Changes to T.S. surveillance instrumentation tables to add new instrumentation for containment high-range radiation monitors and to add new instrumentation; and delete current instrumentation for drywell pressure-wide range and suppression chamber wide-range water level in response to requirements in NUREG–0737; items II.F.1.3, II.F.1.4 and II.F.1.5.

5. Changes to T.S. RPS instrumentation requirement tables to delete the bypass function if reactor pressure is less than 1055 psig and the mode switch is not in the RUN mode.

6. Revisions to the T.S. table for containment isolation valve surveillance to reflect the revised location of several H_2/O_2 isolation valves.

7. Changes to T.S. surveillance instrumentation tables to reflect new instrument numbers for the new upgraded drywell temperature and pressure instrumentation.

8. Revisions to the table of testable penetrations to reflect the new testable penetrations as a result of modifications to make the flange side of several isolation valves testable.

9. Revision of the T.S. table for containment isolation valve surveillance to add two new isolation valves that are part of a newly installed redundant discharge line from the drywell compressor into containment and to delete one isolation valve which was removed from the demineralized water system.

10. Revision of T.S. to provide limiting conditions for operation and surveillance requirements for electric power monitoring for the reactor protection system power supply.

11. Modify the T.S. to apply to the new analog (continuous measuring) instrumentation. The analog instrumentation replaces certain mechanical-type pressure and level switches with a more accurate and more stable electronic transmitter/electronic switch system and will provide improved performance of trip functions for reactor protection system actuation, and containment isolation. The changes to the T.S. include:

a. In the tables on functional test frequencies, calibration frequencies and surveillance requirements, for each switch replaced, add the instrument number and type of sensor beneath the parameter being monitored and/or controlled.

b. Add notes to the above tables to specify how the functional and calibration tests are to be conducted.

c. In addition to the above administrative changes, the calibration requirements have been changed to incorporate extended calibration intervals. However, the required setpoints, functional test frequencies and channel check frequencies for the instrumentation will not be changed. The new calibration requirements, together with the new instrumentation, are expected to provide a more reliable instrumentation system.

12. Change the T.S. to reflect the addition of a thermal power monitor. The purpose of this monitor is to have the Average Power Range MOnitor (APRM) flow biased neutron flux signal respond to the thermal flux rather than the neutron flux in the core by accounting for the approximately 6-second thermnal time constant of the fuel. The specific changes to the T.S. are:

a. Add the words "flow biased" in parenthesis to the heading for the limits on "APRM Flux Scram Trip Settings" to indicate that the settings are reduced according to the equations given in this section when there is less than 100% core flow.

b. There is a trip unit separate from the APRM flow-biased scram at less than 120% instantaneous neutron flux. A new requirement is being added to require that whenever the mode switch is in the run position, the APRM fixed high flux scram trip setting shall be operable and set at S≤120% power.

c. The bases for the neutron flux scram are revised to describe the functions of the APRM Flow-Biased High Flux Scram Trip Setting and the Fixed High Neutron Flux Scram Trip.

d. Since there is now a new trip system, the tables listing the operability requirements and functional test frequencies on the scram instrumentation have to be revised to add this new instrumentation.

13. Administrative changes to the T.S. involving changes to the Table of Contents to reflect the above license changes and miscellaneous editorial changes.

Bases for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing examples of actions that are likely, and are not likely, to involve significant hazard considerations (48 FR 14870). Four examples of actions not likely to involve significant hazards considerations are:

(i) A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: For example, a more stringent surveillance requirement.

(iii) For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

(vi) A change which either may result in some increase to the probability of consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

EAch of the thirteen changes to the T.S. described previously is encompassed by one of the above examples of actions not likely to involve a significant hazards consideration. The basis for this determination on each of the thirteen changes is discussed below

1. *Core Reload*

1.a Fuel Changes

The changes to the T.S. associated with removing depleted spent fuel from the reactor and replacing these with new fuel assemblies is encompassed by example (iii) above of those actions not likely to involve a significant hazards consideration.

The proposed reload involves fuel assemblies of the same type as previously found acceptable by the staff and loaded in the core in previous cycles. The analytical methods used by the licensee to demonstrate conformance to the technical specifications have been previously approved by the staff. In addition, no changes have been made to the acceptance criteria for the technical specification changes involved. Since the replacement fuel assemblies are of the same type previously added to all three Browns Ferry units and other BWRs and since the codes, models and analytical techniques used to analyze the reload have been generically approved by the NRC, the changes to the T.S. associated with the reload are clearly encompassed by example (iii) of the guidance provided by the Commission for an action not likely to involve a significant hazards consideration.

1.b Increased Core Flow

When a plant reaches the nominal end of core life or end-of-cycle, there is still a lot of energy remaining in the core. Some of this energy can be recovered by operating in a "coast-down" mode, with the maximum amount of power gradually decreasing. Increasing coolant flow through the reactor—by a maximum of 5%—can reduce the amount of power loss by up to 3%. The staff has previously reviewed and approved increased core flow for a specific cycle as a separate amendment (e.g., Amendment No. 88 issued March 14, 1983 for Browns Ferry Unit 1). More recently, the staff has reviewed and approved increased core flow at the end of a cycle as part of the reload review for that cycle (e.g. Amendment 91 issued December 1, 1983 approving operation of Browns Ferry Unit 1 in Cycle 6). The proposed amendment—which is the subject of this notice—is to establish the limiting conditions for operation of

Browns Ferry Unit 3 Cycle 6, includng the conditions for operation with increased core flow at the end of the nominal cycle. The proposed changes—and any of the amendments previously issued authorizing increased core flow—only reduce the power generation losses during coastdown. The changes do not in any manner authorize an increase in the licensed power of the facilities. In our previous reviews, the staff has evaluated the accidents that might be affected by the proposed changes (e.g. rod drop accidents, potential for bundle lift-off, etc.) and concluded that there is no significant increase in the probability or consequences of the postulated accidents that are normally evaluated. The staff had also concluded in our previous reviews of the same changes proposed herein that there could possibly be a reduction in a safety margin—but that this reduction can be minimized by adopting certain compensatory measures (e.g., clipping the rod block monitor at 106% and increasing the operating limit minimum critical power ratio to provide more margin against postulated fuel damage). These compensatory measures reduce the impacts of the changes so the results are clearly within all acceptable criteria specified in the Standard Review Plan. The proposed changes relating to increased core flow are thus encompassed by example (vi) of the guidance provided by the Commission.

1.c References in the Bases

The changes in the T.S. associated with changing the references in the Bases to reflect that the reload transient analysis is now being performed by TVA is encompassed by examples (i) and (iii) above of those actions not likely to involve a significant hazards consideration.

The reload analysis, in the past, has been performed by General Electric Company. This reload analysis has been performed by TVA using analytical methods described in TVA–TR81–01–A. The analytical methods have been approved by the staff. Since NRC has previously found these methods acceptable and the T.S. changes are being made to achieve consistency between the methods used and the references in the Bases, these changes to the T.S. are clearly encompassed by examples (i) and (iii) of the guidance provided by the Commission for an action not likely to involve a significant hazards consideration.

2. *Changes Related to Torus Modifications*

The Commission issued an Order in the matter of Bowns Ferry Unit 3 requiring completion—during the current refueling outage—of the plant modification required by the Mark I program so as to comply with the Staff's Acceptance Criteria contained in Appendix A to NUREG–0661. Numerous modifications are being implemented in the Unit 3 torus during the reload 5 refueling outage as part of the Mark I Containment Program. These modifications are required by NRC to restore the originally intended margins of safety in the containment design. Most of the major internal structural modifications to the torus were completed during the previous refueling outage. These modifications are discussed in Amendment No. 51 to Facility Operating License No. DPR–68 issued March 24, 1982. The modifications being made during this outage will complete the requirements specified in NUREG–0661, "Safety Evaluation Report, Mark I Containment Long-Term Program."

One of the changes to the T.S. is to revise the tables that list the surveillance instrumentation associated with the suppression pool bulk temperature. This modification provides an improved torus temperature monitoring system which consists of 16 sensors. This will provide a more accurate indication of the torus water bulk temperature as required by NUREG–0661 and will replace the suppression chamber water temperature instruments presently listed in the T.S. Another change to the T.S. is to reduce the minimum required flow for two LPCI pumps in the same loop. The reduced flow of 12000 gpm is a result of the installation of an orifice plate in the RHR return line to eliminate vibration in that line. A new containment cooling analysis was performed for this configuration, and it was determined that this flow rate produces a long-term suppression pool temperature well within that necessary for stable and complete steam condensation and for adequate RHR and core spray pumps net positive suction head. This same change was approved for Units 1 and 2 by Amendment Nos. 91 and 85, respectively.

The third change to the T.S. for this subject is to eliminate the requirement of placing the reactor in cold shutdown and performing torus inspection after extended operation of relief valves above a suppression pool temperature of 130°F. Since the torus is being extensively upgraded, in accordance with NRC requirements, to withstand dynamic loading significantly beyond that originally expected, the torus inspection is not necessary. This has previously been approved for Browns Ferry Unit 2 in Amendment No. 85 and Browns Ferry Unit 1 in Amendment No. 91.

Our previous reviews have concluded that the above changes do not result in an increase in the probability or consequences of a previously-analyzed accident and that the results of any reduction in safety margins were clearly within all acceptable criteria and were thus approved. Since the changes proposed for Unit 3 are the same as found acceptable for Units 1 and 2 and since Unit 3 is the same design, it is reasonable to conclude that the proposed changes are encompassed by example (vi) of the guidance provided by the Commission.

The final change to the T.S. on this subject is to revise the bases for the present limits on temperature of water in the torus. The present bases for suppression pool temperature limits were founded on the Humboldt Bay and Bodega Bay tests. Consistent with the long-term torus integrity program of NUREG–0661 and NUREG–0783, the bases require change to account for steam mass fluxes through the safety/relief valve (S/RV) T-quenchers. The proposed bases describe assurance of stable and complete condensation of steam discharged through the S/RVs and adequate residual heat removal (RHR) and core spray pump net positive suction head.

As noted above, the Commission ordered that the above torus modifications be implemented. The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The changes to the T.S. place operability and calibration requirements on the new temperature monitoring system. Since these are new instruments, the surveillance requirements are not presently in the T.S. Thus, adding these restrictions and controls is encompassed by example (ii) of the guidance provided by the Commission.

The bases for the suppression pool temperature limits are also being changed to account for steam mass fluxes through the safety relief valve T-quenchers are required by NUREG–0661 and NUREG–0783. The proposed bases describe assurances of stable and complete condensation of steam discharged through the S/RVs and adequate RHR and core spray pump net positive suction head. The changes are necessary administrative follow up actions essential to the implementation of improvements required by the Commission. Modifying these

restrictions is encompassed by example (ii) of the guidance provided by the Commission.

3. *Scram discharge Instrument Volume*

The SDVs and SDIVs are being modified to address inadequacies identified by the partial rod insertion event on Browns Ferry Unit 3 in June 1980. One of the modifications includes adding another valve in series to the existing drain and vent valves on the SDV and SDIV. Another modification includes adding electronic level switches to initiate a scram on a high level in the SDIV. On June 24, 1983, the Commission issued Orders for the Browns ferry Nuclear Plant, Units 1 and 3, to install permanent Scram Discharge System modifications during the Cycle 5 outages for Units 1 and 3. (This is the Cycle 5 outage for Unit 3). The modifications have been previously completed for Units 1 and 2. The Orders included "Model Technical Specifications which are provided as guidance for preparing Technical Specification changes that will be required to be approved before operation with the modified system." Both the modification of the systems and submission of T.S. changes to place operability and surveillance requirements on the new instruments and valves were required of the licensee to be in compliance with a Commission Order. Thus, the changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. Adding these new restrictions and controls, which otherwise would not be in the T.S., is encompassed by example (ii) of the guidance provided by the Commission.

4. *Accident Monitoring Instrumentation*

Item II.F.1 of NUREG–0737, "Clarification of TMI Action Plan Requirements," requires all licensees to install five new monitoring systems and to provide onsite sampling/analysis capability for a specified range of radionuclides. For all six categories, NUREG–0737, states: "Changes to technical specifications will be required." During this refueling outage, the licensee has installed: (a) A containment highrange radiation monitoring system, (b) a drywell wide-range pressure monitoring system and (c) a suppression chamber wide-range water level monitoring system. These three items were required by NUREG–0737, items II.F.1.3, II.F.1.4 and II.F.1.5, respectively. The changes to the T.S., which track the model T.S. provided to the licensee by the staff, are to add operability and surveillance requirements on the new monitoring systems to the T.S.

The revisions also delete the present drywell pressure and suppression chamber water level instruments since they are being replaced by items b and c above. The changes to the technical specifications are necessary administrative follow up actions required by the Commission. Adding the new surveillance requirements and controls is encompassed by example (ii) of the guidance provided by the Commission.

5. *Scram Permissive Pressure Switches at 1055 psig*

A number of scram bypasses are provided in the RPS system to account for the varying protection requirements depending on reactor conditions and to allow for instrument service during reactor operations. Some bypasses are automatic, others are manual. At Browns Ferry and most other BWRs, whenever the mode switch is in the shutdown, refuel or startup/hot standby position—i.e., in any position other than RUN—there is an automatic bypass of the scram trips from the main steamline isolation scram and main condenser low vaccum scram if the reactor pressure is below 1055 psig. The bypass allows reactor operations at low power with the main steamlines isloated and the main condenser not in operation. These conditions exist during startups, certain reactivity tests during refueling, and hot standby conditions. This is commonly referred to as "bottled-up operation". In early 1974, as part of the startup test program for Browns Ferry Unit 1, the General Electric Company (GE) conducted a test of the BWR–4 product line which demonstrated that there was no stability problem with bottled-up operation up to full pressure and temperature conditions. Rather than bypass the main steamline isolation valve closure and the turbine condenser low vacuum scram functions whenever the reactor pressure is below 1055 psig, the licensee proposes to delete this scram system except when in the RUN mode. The reactor high pressure scram is set at 1055 psig and is operable in the refuel and startup/standby modes of operation. If reactor pressure exceeds 1055 psig, and the main steamline islation valve closure and the turbine con-denser low vaccum functions become operable. The bypass circuit therefore serves no real purpose. When the two scram functions become available, the reactor is already scrammed.

As noted above, the two scram functions which the licensee proposes to delete in the startup, shutdown and refuel modes are automatically bypassed in these modes, unless the reactor pressure should exceed 1055 psig—and, in this case, the system is tripped by the high pressure scram. A review of the original basis for the automatic bypass justification indicates that the proposed change is not likely to affect the probability or consequences of previously-analyzed accidents on way or the other. Our preliminary evaluation of the proposed change also indicates that it is not likely to reduce a safety margin and will not create the possibility of a new accident. Based on our evaluation of the three factors in 10 CFR 50.92, the staff has made a preliminary determination that the proposed changes to the Technical Specifications involve no significant hazards consideration.

6. *Hydrogen/Oxygen (H_2/O_2) Analyzer System*

The isolation valves for the H_2/O_2 system are class B valves—those that isolate lines that connect directly with the containment free air space. This type of lines generally has two isolation valves in series, both on the outside of containment. Four valves on this system were previously installed inside contaiment. During this current outage, the four valves are being moved outboard of the containment and the T.S. are being revised to reflect this. The only change being made is to revise the listed location of the valves in the technical specifications. There is no change in the surveillance or test requirements. The change are consistent with the location of the isolation valves for other instrument sample lines in the same table which have been approved by the staff. The changes are also the same as previously approved for Unit 1 and appear to be consistent with Criterion 56 of the General Design Criteria, 10 CFR 50 App. A. As such, the changes are encompassed by example (vi) of the guidance provided by the Commission.

7. *Drywell Temperature and Pressure*

The drywell temperature and pressure surveillance instruction is being upgraded this outage to provide qualified, more reliable instrumentation. The T.S. are being revised to reflect new instrument numbers. The surveillance requirements remain unchanged. The changes to the technical specifications are necessary administrative follow up actions required by the Commission and are clearly encompassed by example (i) of the guidance provided by the Commission.

8. *Testable Penetrations*

Modifications to permit testing are being made to the flange side of fourteen containment isolation valves which cannot be isolated from primary containment to be tested. This modification will provide two gaskets with a pressure tap between the gaskets to allow the flange to be leak tested. Operability of the valve will not be affected by this modification. Fourteen new testable penetrations resulted and they were added to the table of testable penetrations with double o-ring seals. Since surveillance requirements are being added, the change is encompassed by example (ii) of the guidance provided by the Commission.

Several editorial changes were also made to this table. They include revising the identification name on several penetrations, adding two penetrations that have been previously included in the test program but were inadvertently left out of the table and removing penetration X–213A which no longer exists. These changes are purely administrative and are encompassed by example (i) of the guidance provided by the Commission.

9. *Redundant Air Supply to Drywell*

During the current outage, TVA has installed a second discharge line from the drywell compressor into containment. This line was added to provide the capability for isolation of approximately one-half of the drywell suppression equipment in the case of a drywell line leak. This air supply will be used to supply two inboard main steam isolation valves (MSIVs), and approximately one-half of all other air-operated equipment in the drywell. This will significantly reduce the possibility of any one control air pipe break inside containment from requiring immediate shutdown and isolation due to MSIVs, MSRVs, and drywell coolers being inoperable. Since any line penetrating containment requires two isolation valves, the table in the Technical Specifications listing the isolation valves that must be periodically tested is being revised to add these two new isolation valves. TVA has concluded that this modification will increase the margin of safety. The changes to the technical specifications are necessary administrative follow up actions essential to the implementation of this improvement. The two isolation valves being added to the T.S. are new valves not presently listed in the T.S. If they were not added to the table of valves to be periodically tested, there would be no T.S. requirement to test these valves. Adding these additional controls is encompassed by example (ii) of the guidance provided by the Commission.

One isolation valve on the demineralized water system was removed from Unit 3. The demineralized water system is no longer used since makeup is supplied from the condensate system. The isolation valve was removed and the line capped. The T.S. are being revised to remove this valve from the table of valves to be tested. The changes to the technical specifications are necessary administrative follow up actions essential to the implementation of the improvement. The changes are clearly encompassed by example (i) provided by the Commission.

10. *Monitoring of RPS Power Supply*

By letter dated September 24, 1980, the staff informed TVA (and most other BWRs) that "we have determined that modifications should be performed to provide fully redundant Class IE protection at the interface of non-Class 1E power supplies and the RPS." By letter dated December 4, 1980, TVA committed to install the required modifications. By letters dated October 30, 1981 and July 28, 1982, NRC sent TVA model Technical Specifications for electric power monitoring of the RPS design and modification. During the current outage of Unit 3, the RPS is being modified to provide a fully redundant Class 1E protection at the interface of the non-Class 1E power supplies and the RPS. This will ensure that failure of a non-Class 1E reactor protection power supply will not cause adverse interaction to the Class 1E reactor protection system.

The Technical Specifications are being revised similar to the model T.S. provided to TVA to reflect the limiting conditions for operation and surveillance requirements associated with the RPS modifications. Page 41 is being modified to add a description of these sections in the bases. The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The additional limitations and controls, which are presently not in the T.S., are encompassed by example (ii) of the guidance provided by the Commission.

11. *Analog Trip System*

The RPS, the primary containment isolation system (PCIS), and the core standby cooling systems (CSCS) use mechanical-type switches in the sensors that monitor plant process parameters. These mechanical-type switches are very subject to drift in the set-point as is evident from the many licensee event reports (LERs) that have been submitted reporting calibration drifts in these switches. Advances in technology make it possible to replace the mechanical-type switches with a more accurate and more stable electronic transmitter/electronic switch system. The modification involves removing one device and substituting other devices to perform the same function. Changes in design bases, protective function, redundancy, trip point and logic are not involved. Similar modifications have been approved for other BWRs and for Browns Ferry Unit 1 by Amendment No. 93 issued December 16, 1983.

As described previously, most of the changes to the T.S. are administrative in nature (i.e., adding the specific number and types of sensor and adding notes to describe how testing is conducted). As such, they are encompassed by example (i) of the guidance provided by the Commission. The changes in surveillance requirements relate to example (ii) of the guidance provided by the Commission. Some of the surveillance intervals have been decreased as appropriate for each new instrument. However, the overall effect of the changes in technical specifications will be to increase the total surveillance requirements in support of a more reliable instrumentation system.

12. *Thermal Power Monitor*

During this outage, the licensee is installing a flow-biased simulated thermal power monitor. These monitors are installed on most all BWRs; the justification for these monitors is discussed in the "Bases" for the ARPM settings in the BWR Standard Technical Specifications, NUREG–0123 (BWR/4, STS, Section 2.2.1, page B2–7). The monitors are installed to have the APRM flow-biased neutron flux signal respond to the thermal flux rather than the neutron flux by accounting for the approximately 6-second thermal time constant of the fuel. The addition of the thermal power monitor will prevent a flow-biased neutron flux scram when a transient-induced neutron flux spike occurs that is a short time duration and does not result in an instantaneous heat flux in excess of transient limits. Neutron flux is damped by approximately a 6-second fuel time constant. This feature will reduce the number of scrams due to small fast flux transients such as those which result from control valve and MSIV testing and small perturbations in water level and pressure.

A thermal power monitor was installed in Browns Ferry Units 1 and 2 during their last outage and approved by

Amendment No. 91 to Facility Operating License No. DPR-33 issued December 1, 1983 and Amendment No. 85 to Facility Operating License No. DPR-52 issued March 11, 1983 respectively.

As identified previously, the changes to the T.S. are to add operability and functional test frequency requirements for this new trip system and to add a description of this new trip system in the "Bases." As noted previously, this same change has been previously approved for Browns Ferry Units 1 and 2. Browns Ferry Unit 3—the subject of this request—has the same core design as Units 1 and 2. The purpose of the modification is to reduce unnecessary scrams due to transient-induced neutron flux spikes. The staff has previously determined that, in a BWR core of the Browns Ferry design, these spikes are of such short duration that the heat flux will not exceed the Commission core thermal hydraulic or ECCS criteria (e.g., 10 CFR 50.46). Based on our previous safety evaluations, the proposed change will not result in an increase in the probability or consequences of any previously analyzed accidents (i.e., the transient accidents routinely analyzed as part of any reload) or create the possibility of a new or different accident. The proposed change will not result in a reduction in a margin of safety. In fact, by reducing unnecessary scrams, with the associated stresses on plant systems and potential challenges to safety systems, the proposed change will likely increase the margin of safety. Based on our evaluation of the three factors in 10 CFR 50.92, the staff has made a preliminary determination that the proposed changes to the Technical Specifications associated with a thermal power monitor involve no significant hazards consideration.

13. *Administrative Changes*

Several administrative changes are being made to the Technical Specifications. These include revising the Table of Contents to reflect the changes above, and miscellaneous editorial changes. These changes are editorial in nature and have no safety significance. These changes are encompassed by example (i) cited by the Commission as an action not likely to pose a significant hazards consideration. Since all of the changes to the T.S. given in the thirteen areas above are encompassed by an example in the guidance provided by the Commission of actions not likely to involve a significant hazards consideration, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: February 22, 1984.

Description of amendement request: The proposed amendments would revise the Technical Specifications to lower the main steam isolation valve (MSIV) water level isolation setpoint from Level 2 to Level 1. The purpose of lowering the MSIV isolation setpoint is to reduce the probability of reactor isolation during operation and thus reduce the potential challenges to the safety/relief valves (SRVs).

The objective of Item II.K.3.16 in the "TMI Action Plan Requirements" (NUREG-0737) is to reduce the potential challenges and failures of SRVs. In response to this requirement, the BWR Owners Group submitted the results of a feasibility study and evaluation of various actions and modifications which might reduce the challenges and failures of SRVs. The staff evaluated the BWR Owners Group feasibility study and prepared a generic Safety Evaluation which was sent to all BWR licensees. In addition to a preventative maintenance program, the staff endorsed three modifications that would achieve the objectives of NUREG-0737, Item II.K.3.16. One of the three recommended actions or modifications was to lower the reactor water level isolation setpoint for main steam isolation valve closure from Level 2 to Level 1. The purpose of these amendments is to implement one of the staff recommended actions.

Basis for proposed no significant hazards consideration determination: As noted above, the staff prepared a generic Safety Evaluation of the subject action which was sent to all BWR licensees. In this generic Safety Evaluation, we concluded—as had the BWR Owners Group—that the modification would not compromise relief valve operation or other system performance. The staff concluded that this design modification will maintain the condenser availability for a longer time; this allows more energy to be released to the main condenser and will result in a slower repressurization rate. The lower MSIV water level trip reduces isolations, SRV challenges and provides some benefit to SRV subsequent actuations. This in turn reduces the potential for a stuck-open relief valve.

The staff has concluded that the proposed action could reduce the probability of one of the accidents normally analyzed (i.e., a stuck-open relief valve) and could reduce the potential consequences of pressurization type accidents. In addition, no new accidents not previously evaluated would be created by the proposed change in main steam isolation valve closure setpoint. By permitting more energy to be dissipated in the condenser following a reactor trip and reducing the potential actuation (and repeated actuation) of the 13 SRVs, the staff has concluded that the proposed action will result in a significant increase in safety margins.

On the above basis, the staff proposes to determine that the proposed amendments involve no significant hazards consideration, since the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: April 3, 1984.

Description of amendment request: The amendment would add a condition to each of the Browns Ferry licenses to require the licensee to "maintain in effect and fully implement all provisions of the Commission approved physical security plan, guard training and qualification plan, and safeguards contingency plan, including amendments made pursuant to the authority of 10 CFR 50.54(p)". The approved plan, which contains information protected under 10 CFR 73.21, is entitled "Browns Ferry Nuclear Plant Physical Security Plan," dated May 15, 1982 (TVA letter dated June 11, 1982) and revisions

submitted by TVA letters dated August 31, 1982 and October 19, 1982.

Each of the Browns Ferry licenses now contain three (3) conditions. One condition requires that the licensee shall maintain in effect and fully implement a Commission-approved physical security plan . . . dated June 15, 1978. The second condition requires that the licensee shall follow all provisions of the NRC approved Guard Training and Qualification Plan . . . dated August 17, 1979 et al. The third license condition requires that the licensee shall fully implement and maintain in effect all provisions of the Commission-approved Safeguard Contingency Plan . . . dated March 1, 1979 et al.

As a result of NRC comments and inspections and the licensee's experience with the above plans, TVA revised the plans, incorporated the three separate plans into one plan and submitted the revised plan for NRC approval by letter dated June 11, 1982 as supplemented by letters dated August 31 and October 19, 1982. The staff has reviewed the revised plan and has concluded that the revised plan will significantly enhance security at Browns Ferry and is fully acceptable.

The proposed action is to substitute the above license condition for the three conditions that are presently in each license for the three Browns Ferry units. Since the license conditions refer to plans with specific dates, until or unless these conditions are modified, the licensee must maintain in-effect plans which are not as effective as the revised plan.

Basis for proposed no significant hazards consideration determination: The licensee is required to comply with Commission Regulations such as 10 CFR Part 73 on Physical Protection of Plants and Materials. The Regulation requires that the licensee prepare and maintain certain plans such as the physical security plan which is the subject of this amendment. The purpose of the amendment is to identify—by date—which NRC-approved plan the licensee shall implement. As such, it has no significant hazards consideration. The revised plan will not increase the probability or consequences of any previously analyzed accident or create the possibility of a new accident. The revised physical security plan has no effect on reactor system safety margins.

Based on the above, the staff has made a prelininary determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: March 15, 1984.

Description of amendment request: This submittal is a revision to a previous request for amendment dated March 16, 1979, as revised December 23, 1982, July 13, 1983 (Item 2) and August 18, 1983 (Item 6), which was noticed in the **Federal Register** on November 22, 1983 (48 FR 52836). The March 15, 1984, submittal is a complete revision of the previous request and incorporates numerous changes to ensure that the proposed Radiological Effluent Technical Specifications (RETS) meet the intent of current NRC staff positions presented in NUREG–0472, "Radiological Effluent Technical Specifications for PWRs, 10 CFR 50.36a, and Appendix I to 10 CFR Part 50. The March 15, 1984 proposed amendment provides, as did the previous submittal noticed on November 22, 1983, new Limiting Conditions for Operation and Surveillance Requirements for liquid and gaseous effluent monitoring instrumentation, concentration limits for liquid effluents, limits for dose rates and projected doses resulting from liquid and gaseous effluents, radioactive effluent treatment system operating requirements, inventory limits for temporary outdoor liquid storage, waste gas stream oxygen concentration limits, and requirements to assure that all solid wastes meet applicable burial site specifications. The proposed Technical Specifications also provide for a radiological environmental monitoring program. This amendment also would include bases that support the Limiting Conditions for Operation and Surveillance Requirements. Some changes would be made in administrative controls dealing with the Process Control Program and the Offsite Dose Calculation Manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. Licensees are required by 10 CFR 50.36a to install, maintain, and operate the radioactive waste treatment systems in a manner that would keep releases of radioactive material during normal operation to unrestricted areas as low as is reasonably achievable. To ensure compliance with this requirement, it is necessary to add additional restrictions and controls to the Technical Specifications as described above. The Commission's staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: February 23, 1984.

Description of amendment request: License changes to remove from the license the requirement for an Automatic Air Dump System. An Automatic Air Dump System was required for the Vermont Yankee Plant by the NRC Order for Modification of License dated January 9, 1981, as an interim requirement until permanent modifications were in place to improve hydraulic coupling between the scram discharge volume and the scram level instrumention. The licensee has requested that the requirement for an Automatic Air Dump System be removed from the license because permanent modifications to improve hydraulic coupling have been completed which meet the criteria of the staff generic Safety Evaluation of December 1, 1980.

Basis for proposed no significant hazards consideration determination: Proposed amendment has been

evaluated with respect to significant hazards consideration as follows:

The safety function of the automatic air dump system was to improve the reliability of the scram system as an interim measure until long term modifications could be made to improve the hydraulic coupling of the scram discharge volume. The long term improvements have now been completed, therefore the automatic air dump system can be removed. The removal of the air dump system combined with the improvements in the scram discharge volume will not involve a significant increase in the probability or consequences of an accident previously evaluated, but will, in fact, reduce the probability of an accident. Neither will the possibility of a new or different type accident result. The margin of safety will remain unchanged by the removal of the automatic air dump system. Therefore, the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Therefore, for reasons discussed above, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: March 26, 1984.

Description of amendment request: The proposed amendment would modify the Technical Specifications to reflect a change in the main steam line high flow setpoint, from 120% to 140% of rated steam flow and to increase the reactor power limit for quarterly main steam isolation valve (MSIV) full closure testing from 50% to 75% of rated power.

Increasing the main steam line high flow isolation setpoint form 120% to 140% of rated steam flow will reduce the probability of inadvertent reactor isolations and possible challenges to safety/relief valves during certain planned operating maneuvers, such as weekly surveillance of main steam isolation valves and turbine valves, and during certain operational transients. This is consistent with the licensee's proposed resolution of NUREG–0737, Item II.K.3.16, "Reduction in the Challenges and Failures of Relief Valves."

As a result of the present main steam line high flow limit of 120%, Technical Specifications presently require that MSIV testing be performed at 50% of rated power. The proposed change will permit one of the main steam lines to be isolated during quarterly MSIV surveilance testing with the plant continuing to operate at up to 75% of rated power, consistent with the 140% high flow limit.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment involves a change which either may result in some increase in the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the changes are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The change in high flow setpoint proposed by the licensee would increase the main steam line high flow isolation setpoint from 120% to 140% of rated steam flow.

The main steam line high flow isolation setpoint trip function is provided primarily in order to assure that for the worst case main steam line break outside the drywell:

(1) The coolant mass inventory loss is such that the fuel is not uncovered;

(2) Fuel cladding temperatures remain below acceptable limits; and

(3) The release of radioactivity to the environs is below the 10 CFR 100 limits.

According to the licensee's analyses, the new trip setpoint meets the above requirements. In addition, the licensee performed analyses to confirm that the above requirements were satisfied for breaks that are smaller than the worst main steam line break.

The function of the reactor power limit for quarterly MSIV full closure testing is to avoid inadvertent high flow isolation setpoint trips during testing. According to the licensee's analyses, a 75% reactor power limit with a 140% high flow isolation setpoint provides about the same flow margin to inadvertent trip as exists presently during normal full power operation with the present 120% high flow isolation setpoint. No other adverse effects have been identified from this change, and the increase in setpoint would reduce spurious primary containment isolations consistent with the licensee's proposed resolution to NUREG–0737, Item II.K.3.16, Reduction in the Challenges and Failures of Relief Valves. Therefore, the change is clearly within all acceptable criteria with respect to the reactor coolant system and its associated auxiliaries as contained in Section 15.6.4 of the Standard Review Plan (SRP) "Radiological Consequences of Main Steam Line Failure Outside Containment (BWR)" which is the applicable section of the SRP for the system involved.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vasallo.

Virginia Electric and Power Company, Docket No. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: January 12, 1983, as supplemented April 3, 1984.

Description of amendment requests: The request for amendments was initially noticed July 20, 1983 (48 FR 33091). This notice includes requested changes in a subsequent submittal dated April 3, 1984. This proposed change supplements a previous change to Specification 3.2. A charging pump cross-connect modification was implemented in response to commitments made to the staff concerning Appendix A to Branch Technical Position 9.5–1 and the Fire Protection Safety Evaluation Report for Surry Power Station dated September, 1979. The purpse of the charging pump cross-connect modification is to provide alternate shutdown capability. Specification 3.2 is revised to address the availability of charging pump

capability from the non-operating unit during one unit operation. In the event the operating unit's charging pumps become inoperable, the opposite unit's charging pump may be used to bring the disabled unit to cold shutdown conditions. This proposed change allows the status of opposite unit charging pump to be "available", whereas in the previously proposed change it was required to be operable. In addition, editorial changes have been made.

Basis for proposed no significant hazards consideration determination: This change involving the changing pumps constitutes an additional limitation, restiction, or control not presently included in the Technical Specifications and is similar to the example given in 48 FR 14870 paragraph (ii) of a change not likely to involve significant hazards considerations. The administrative changes fall into category given in example (i) (in 48 FR 14870) which is a change to achieve consistency, correction of an error, or a change in nomenclature and is not likely to involve significant hazards considerations. Therefore, since the changes are very much like the examples given, the staff purposes to determine that the changes involve no significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Virginia Electric and Power Company, Docket No. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendment: February 9, 1984, as supplemented February 14, and February 21, 1984.

Description of amendment request: The amendments would add additional accident monitoring requirements in accordance with NUREG–0737. They pertain to Items II.B.3, II.F.1.2 and III.D.3.4. VEPCO proposes to add a new specification—6.4.M—to establish, implement and maintain a program for ensuring the capability to obtain and analyze reactor coolant, radioactive iodines and particulates in plant gaseous effluents and containment atmosphere samples under accident conditions. The proposed specification is consistent with the guidance provided in the NRC's November 1, 1983 letter.

A change is also proposed to add Limiting Conditions for Operation and surveillance requirements for the main control room chlorine detection systems which have been installed as part of our actions to comply with the requirements of NUREG–0737, Item III.D.3.4, Control Room Habitability. The proposed changes are consistent with the guidance provided in NRC Generic Letter 83–37.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The changes requested fall in this category.

Local Public Document Room location: Swem Library, College of Wiliam and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of amendment request: January 20, 1984.

Description of amendment request: The proposed amendment would reflect the changes in the revised Section of 10 CFR 50.72, and a new Section, 10 CFR 50.73, both of which became effective on January 1, 1984. The revised § 50.72 modifies the immediate notification requirements for operating nuclear power reactors and § 50.73 provides for a revised Licensee Event Report System.

The proposed changes are in the "Definitions" and "Administrative Control" sections of the technical specifications. The definition "Reportable Occurrence" is replaced by a new term, "Reportable Event." Also under reportable event action, paragraph 6.6.1 will be changed to read, a. the Commission shall be notified and a report submitted pursuant to the requirements of § 50.73 to 10 CFR Part 50, and b. each Reportable Event shall be reviewed by the Plant Operations Committee (POC), and the results of this review shall be submitted to the corporate Nuclear Safety Review Board (CNSRB) and the Director of Power Generation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazard consideration include example (vii)—a change in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The changes proposed in the application for amendment are fully encompassed by this example because the license is being changed solely to conform with a change in the regulations. Additionally, the licensee was requested by the NRC staff to make these administrative changes in Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, §§ 50.72 and 50.73, and Standard Technical Specifications", dated December 19, 1983.

Loal Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington.

Attorney for licensee: Nicholas Reynolds, Esquire, Debervoise & Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of amendment request: January 20, 1984, February 8, 1984 and May 4, 1984.

Description of amendment request: This amendment will modify the Technical Specification (TS) to provide a clarification of certain TS requirements, provide editorial and/or administrative corrections of certain TS requirements, and provide TS changes to reflect consistency with the actual plant design.

The revisions are described as follows:

(1) Technical Specification Table 4.3.7.12–1: Note 1 lists alarm functions for the intermediate noble gas activity monitor not applicable in the WNP–2 design. Add note 7 to state that "for the Channel Functional Test on intermediate range noble gas activity monitors, demonstrate that circuit failures or instrument controls when set in the OFF position produce control room alarm annunciation."

(2) Technical Specification Table 3.6.3–1, Primary Containment Isolation Valves: Revise the closure times from 5 seconds to 15 seconds for 8 Reactor Recirculation Hydraulic Valves and Reactor Recirculation (Seal Injection) Valves RR–V–16 A, B. The increase of valve closure times to 15 seconds results in changes which are within the

acceptable design criteria with respect to the system.

(3) Technical Specification 3/4.8.1, A. C. Sources: In the note referred to in paragraph 4.8.1.1.2.a, Items 4 and 5, change the word "only" to "at least" to allow the flexibility to perform more than one cold start test of the diesel generator per 184 days as currently required.

(4) Technical Specification 3/4.8.3, Onsite Power Distribution Systems: Paragraph 3.8.3.2 b is modified to clarify that distribution panel DP–S1–1F is the Division 1 125–VDC critical switch gear distribution panel and DP–S1–1D is the Division 1 remote shutdown distribution panel.

(5) Technical Specification 3/49.2, Instrumentation: In item b, change the words "audible indication" to "alarm."

(6) Technical Specification 6.2.3, Nuclear Safety Assurance Group (NSAG): Modify paragraph 6.2.3.2 to include qualification of NSAG consistent with FSAR & SER. In line 3 after the word "science" add the following: or qualifications meeting ANS 3.1 Draft Revision, dated March 13, 1981, Section 4.2 or 4.4 or equivalent, as described in Section 4.1

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazard consideration include: (i) A purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement, (vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Example (ii) above applies to item (1) since it provides additional control for the channel function test on the intermediate range noble gas activity monitors. Example (vi) above applies to item (2) since the results due to the change are within the acceptable design criteria with respect to the system. The change requested in item (3) eliminates an unnecessary restriction on diesel engine testing to provide the licensee with the flexibility to conduct cold starts if the licensee has reason to cold start test the diesel. The current wording is unintentionally restrictive. The change is similar to example (i) above and thus does not involve a significant hazards consideration.

Example (i) also applies to items (4) and (5). Item (4) corrects an unintentional error and item 5 clarifies the technical specification.

The change requested in item (6) is acceptable since it meets the requirements of TMI Action Item I.B.1.2. The staff's Safety Evaluation Report (NUREG–0892) issued in March 1982 stated that "The qualifications and training of the Safety Engineering Group (SEG), manager will be comparable to that described in Section 4.2 of ANS 3.1, Draft Revision, dated March 13, 1981. Other SEG member qualifications and training will meet ANS 3.1, Draft Revision, dated March 13, 1981, Section 4.2 or 4.4, or equivalent, as described in Section 4.1." The change is consistent with the staff evaluation already reported. Example (i) applies to this item and thus does not involve a significant hazards consideration.

Therefore, since the application for amendments involves proposed changes that are similar to examples for which no significant hazards consideration exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington.

Attorney for licensee: Nicholas Reynolds, Esquire, Bishop, Cook, Liberman, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: March 30, 1984.

Description of amendment request: This amendment responds to NRC Generic Letter 83–37 related to Technical Specifications related to TMI Action Items. The TMI items addressed are: II.B.1, Reactor Coolant System Vents; II.B.3, Post-accident Sampling System; II.F.1.1, Noble Gas Effluent Monitors, II.F.1.2, Sampling and Analysis of Plant Effluents; II.F.1.3, Containment High Range Radiation Monitor; II.F.1.4, II.F.1.5 and II.F.1.6, Containment Pressure, Water Level, and Hydrogen Monitors; III.D.3.4, Control Room Habitability Requirements. Changes are also made to the table of contents and some administrative corrections have been made.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Another example relates to "(i) A purely administrative change to Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature.

The modifications to Technical Specifications in response to the above TMI Action Items requirements constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. Therefore, the proposed changes are similar to the Commission's example (ii) above. Therefore, we expect that the requested changes will not involve significant hazards considerations.

The licensee has proposed to change the Table of Contents and make corrections to the Technical Specifications. This requested change is similar to the Commission's example (i) and is intended to achieve consistency of the Table of Contents with the Technical Specifications and to make corrections in the Technical Specifications.

Since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PPREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment requests: March 30, 1984.

Description of amendment request: The proposed request would reduce the allowable peak linear heat generation rate and narrow the current axial offset tent during the planned coastdown at the end of the Haddam Neck Cycle 12 full-power core life.

Date of publication of individual notice in the **Federal Register:** April 17, 1984, (49 FR 15170).

Expiration date of individual notice: May 17, 1984.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: May 9, 1983.

Brief Description of amendment: The amendment revises the Technical Specifications to permit the steam generators to be declared operable for pre-critical hot functional testing using pump heat (non-nuclear), thereby permitting such testing.

Date of issuance: April 9, 1984.

Effective date: April 9, 1984.

Amendment No.: 91.

Facility Operating License No. DPR–50.

Date of individual notice in **Federal Register:** April 24, 1984, 49 FR 17628.

Indiana and Michigan Electric Company, Docket No. 50–316, Donald C. Cook Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: March 1, 1984, as supplemented by letters dated March 15, 1984, November 11, 1983 and by Exxon Nuclear Company letters dated March 2, 13 and 16, 1984.

Brief description of amendment: The amendment, as a result of the Cycle 5 reload review, would revise the Technical Specifications on the acceptable relationship between the reactor coolant system total flowrate, radial pin peaking factor ($F_{\omega}^{N}{}_{H}$) and power level as a result of emergency core cooling system/loss of coolant accident analysis with up to 5% of the steam generator tubes plugged. The amendment would also revise the Technical Specifications to require 50% of the ice condensor doors to be tested each 9 months (rather than 25% every 6 month), add containment penetration isolation valves on the Containment Service Air systems to Table 3.6–1 with appropriate surveillance isolation times, change the reactor coolant system T_{avg} for four loop operation to account for instrument uncertainties, to change the flow balance test requirements for the Safety Injection System to account for greater miniflow to provide more conservation for net position suction head for the pumps under accident condition, to add the group demand counters to show rod positions during calibration of the rod position indicator, and to make a number of editorial changes including some deletions of statements no longer applicable to plant operation. The amendment, as a result of the Cycle 5 reload review, would also change the licensing condition 2.C.3(p) by deleting requirements for the seismic analysis of the fuel and revised calculations using the RODEX 2 code.

Date of publication of individual notice in **Federal Register:** April 11, 1984. (49 FR 14458).

Expiration date of individual notice: May 11, 1984.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 5, 1984.

Brief description of amendment: The proposed amendment would revise the provisions in the Technical Specifications to incorporate additional Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) operating limits beyond the planar average fuel exposure of 30,000 MWD/T.

Date of publication of individual notice in **Federal Register:** April 12, 1984, 49 FR 14604.

Expiration date of individual notice: May 14, 1984.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

The Toledo Edison Company and the Cleveland Electric Illumination Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 17, 1984, as revised March 29, 1984.

Brief description of amendment: The amendment would revise the Appendix A Technical Specifications to allow for withdrawal of the axial power shaping rods (APSRs) to accommodate power coastdown for the current fuel cycle (Cycle 4). The Technical Specification modifications would consist of revised regulating rod groups insertion limits, APSR insertion limits, and axial power imbalance limits which would apply beyond 200 effective full power days (EFPDs) of reactor operation if the licensee elects to withdraw the APSRs for power coastdown. Should the licensee elect not to withdraw the APSRs, then the limits presently accepted by the NRC and included in the Technical Specifications will remain in effect.

Additionally, the amendment would revise Table 3.2–2, Quadrant Power Title Limits, to incorporate revised steady state and transient tilt limits as determined from the symmetrical incore detector system. The tilt limits as determined by the power range channels and the minimum incore detector system would remain unchanged.

Date of publication of individual notice in **Federal Register:** May 4, 1984, 49 FR 19172.

Expiration date of individual notice: June 4, 1984.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application

complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determiniation and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless indicated otherwise, the Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments. If the Commission has prepared an Environmental Impact Appraisal related to these actions, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no significant effect on the quality of the human environment.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Impact Appraisals as indicated. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: December 22, 1983 as supplemented January 27, 1984.

Brief description of amendments: These amendments to the Technical Specifications reflect: (1) Changes to surveillance requirements for safety related hydraulic sway arrestors (snubbers); (2) a change to the Limiting Conditions for Operation (LCO) for the emergency diesel generator fuel oil storage system to allow removal of the storage tanks from service for inspection; (3) clarification of the surveillance requirements for the 125V DC batteries and chargers; (4) clarification of the LCO and surveillance requirements for the off-site electrical power sources; (5) a change to the list of containment isolation valves to allow intermittent opening of certain valves, under administrative control during reactor operation, to allow testing of the containment hydrogen sampling capability; and (6) deletion of an outdated LCO associated with the control room emergency ventilation system (Unit 1 only).

Date of issuance: April 19, 1984.

Effective date: April 19, 1984.

Amendment Nos. 92 and 73.

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Techincal Specifications.

Date of initial notice in **Federal Register:** February 24, 1984 (49 FR 7030).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 19, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: October 12, 1983 and October 31, 1983.

Brief description of amendment: This amendment consists of two changes in the Administrative Controls Section of the Technical Specifications (TS). One of the changes revises Figures 6.2.1 and 6.2.2 to reflect recent changes in organization which establish a Nuclear Operations Support Department (NOSD) on the Pilgrim Station site. The other change revises TS 6.8.B to clarify its intent that review and approval of procedures for vendors/contractors, who have a quality assurance program approved by the licensee's Operations Review Committee, is not required for work performed at the vendor/contractor facilities.

Date of issuance: April 24, 1984.

Effective date: April 24, 1984.

Amendment No. 74.

Facility Operating License No. DPR–35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 49 FR 3345 and 49 FR 3346.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymounth Public Library, North Street, Plymounth, Massachusetts 02360.

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: January 10, 1984.

Brief description of amendment: The amendment changes the Technical Specifications to permit postponement of a flow test of the core spray system until within 48 hours after restoration of the suppression chamber to operable status but, in any case, no later than November 15, 1984.

Date of Issuance: May 8, 1984.

Effective date: May 8, 1984.

Amendment No. 96.

Facility Operating License No. DPR–62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 Fr 10731.

The Comission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Comonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Station, Unit Nos. 1 and 2, Zion, Illinois

Date of application for amendments: September 19, 1983.

Brief description of amendments: Commonwealth Edison requested a change to the Zion Technical Specifications regarding Reactor Coolant System Chemistry and Specific Activity. This change upgrades the Zion Technical Specifications to the level of the Standard Technical Specifications (NUREG–0452). The upgrading is accomplished by: (1) Changing the ACTION statement to require cold shutdown in 30 hours if chemistry limits are exceeded instead of the former 48 hours, (2) changing the bases by substituting the language used in the Standard Technical Specifications (3) changing the specific activity limit, (4) adding a new limit for dose-equivalent I–131, (5) adding ACTION statement in the event I–131 limits are exceeded, (6) adding a new table of required sampling

and analysis frequencies, (7) adding a new figure for I–131 limits as a function of power, and (8) adding new reporting requirements in the event I–131 limits are exceeded.

Date of issuance: April 19, 1984.

Effective date: April 19, 1984.

Amendment No. 85 and No. 75.

Facility Operating License Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1984 (48 FR 52809).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 19, 1984.

No significant hazards consideration comments received: None.

Local Public Document Room location: Zion Benton Library District, 2600 Emmaus Avenue, Zion Illinois 60099.

Consumers Power Company, Docket 50–155, Big Rock Point Plant, Charlevoix, Michigan

Date of application for amendment: April 14, 1983.

Brief Description of amendment: The Amendment approves Technical Specification changes and changes to the Physical Security Plan which allow suspension of internal access controls to certain areas during shutdown.

Date of issuance: April 18, 1984.

Effective date: April 18, 1984.

Amendment No. 67.

Facility Operating License No.: DPR—6. Amendment revised the Technical Specifications and Physical Security Plan.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43135).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 1984. No public or State comments were received with respect to the Comission's proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix, Michigan

Date of application for amendment: December 16, 1983.

Brief description of amendment: The amendment approves Technical Specification changes which place limits on the allowable concentration of radioactive iodine in the reactor coolant.

Date of issuance: April 30, 1984.

Effective date: April 30, 1984.

Amendment No.: 68.

Facility Operating License No.: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 1, 1984 (49 FR 7669).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1984. No public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of applications for amendments: November 18, 1983.

Brief description of amendment: The amendments permit operation of the facilities without 8-hour battery-powered emergency lights provided in the Standby Shutdown Facility and in the access and egress routes through the yard area west of the Turbine Building.

Date of issuance: April 16, 1984.

Effective date: April 16, 1984.

Amendment Nos.: 31 and 12

Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the license.

Date of initial notices in **Federal Register:** February 24, 1984 (49 FR 7033).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 16, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station) North Carolina 28242.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: December 12, 1983.

Brief description of amendments: The amendments change the Technical Specifications to permit changes in operating limits related to the transition to the use of optimized fuel assemblies and changes related to the boron injection system and control rod insertion limits.

Date of issuance: April 20, 1984.

Effective date: April 20, 1984.

Amendment No.: 32 and 13.

Facility Operating License Nos.: NPF–9 and NPF–17. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 2, 1984 (49 FR 7893).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 20, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Duke Power Company, Dockets Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of application for amendment: February 13, 1984.

Brief description of amendment: These amendments revised the Technical Specifications (TSs) to establish a degraded mode of operation for the Emergency Condenser Cooling Water (ECCW) System. Such a degraded mode would allow for continued operation of the Oconee units for a limited period of time (seven days) if the ECCW System becomes inoperable.

Date of issuance: April 30, 1984.

Effective date: April 30, 1984.

Amendment Nos.: 138, 128, 125.

Facility Operating License Nos.: DPR–38, DPR–47 and DPR–55.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10734.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1984. No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: November 3, 1983.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit 1 by eliminating all radiological specifications from Appendix B, since all such specifications have been incorporated into Appendix A by Amendment No. 66, dated March 28, 1983.

Date of issuance: April 17, 1984.

Effective date: April 17, 1984.

Amendment No.: 77.

Facility Operating License No.: DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1984 (49 FR 7034).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: August 25, 1983 as supplemented October 21, 1983.

Brief Description of amendment: The amendment changed the Technical Specifications to delete all references to load follow operations and eliminate the azimuthal tilt penalty factor when radial peaking factors are calculated by a full core power distribution program.

Date of issuance: April 25, 1984.

Effective date: April 25, 1984.

Amendment No.: 65.

Facility Operating License No.: DPR-67. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983, 48 FR 56502.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1984.

No significan hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33420.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: December 22, 1982.

Brief description of amendment: The amendment changes the Technical Specifications to add fire protection equipment and reporting requirements.

Date of isssuance: May 1, 1984.

Effective date: May 1, 1984.

Amendment No. 66.

Facility Operating License No. DPR-67. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1983, 48 FR 29759.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of Application for amendments: September 10, 1982, supplemented on July 11, and modified September 26, 1983.

Brief descriptionof amendments: These amendments provide new Technical Specification provisions and supporting basis which define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid waste; total dose; and radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program.

Date of isssuance: April 23, 1984.

Effective date: April 23, 1984.

Amendment Nos. 103 and 97.

Facility Operating License Nos. DPR-31 and DPR-41; Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38403) and March 13, 1984 (48 FR 9514).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: October 21, 1983, as supplemented November 23, 1983.

Brief description of amendment: This amendment changes the position title "Manager Plant Training—TMI-1" to "Manager Plant Training—TMI". There is no change in the nature of the duties or responsibilities associated with this organizational position, but the scope has been expanded to include both TMI-1 and TMI-2 training activities.

Date of isssuance: May 3, 1984.

Effective date: May 3, 1984.

Amendment No. 92

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1984, 49 FR 7038.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendment: December 15, 1983.

Brief description of amendment: The amendments delete License Conditions for both Units 1 and 2 for spent fuel pool modification, evaluations for environmental effects of operational activities and water quality standards. License Conditions on Unit 2 would be deleted for containment sump design verification and residual heat removal low flow alarm review. The amendments change the Technical Specifications to delete some references to Amendments 45 and 63, footnotes on Unit 1 for Emergency Core Cooling Subsystems, and footnotes on Unit 2 for Ice Condenser Doors and Containment Purge and Exhaust Isolation System. The Unit 1 Technical Specifications on Containment Purge and Exhaust Isolation System is changed to correct the surveillance reference to channels which should be monitors. The amendments revise Technical Specifications for Unit 1 to change the containment air recirculation fan time delay to 9 ± 1 minute and revise the License Condition in Unit 2 to raise the licensed power from 3391 to 3411 megawatts thermal.

Date of isssuance: April 27, 1984.

Effective date: April 27, 1984.

Amendment Nos. 80 and 63.

Facility Operating License Nos. DPR-58 and DPR-84. Amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register:** January 26, 1983 (49 FR 3344).

The Commission's related evaluation of the amendment is contained in a letter dated April 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa.

Date of application for amendment: July 20, 1983.

Brief description of amendment: Revises the Technical Specifications by adding limiting conditions of operation for operation and surveillance requirements for the Reactor Core Isolation Cooling System.

Date of isssuance: April 13, 1984.

Effective date: April 13, 1984.

Amendment No. 97

Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 48 FR 52816.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 13, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: May 20, 1980.

Brief description of amendment: Revises the Technical Specifications to change the limiting conditions for operation and surveillance requirements for inservice inspection, inservice testing and augmented inservice inspection, as well as the supporting bases. The changes to the Technical Specifications are similar to those contained in Standard Technical Specifications and accomodate the updating provisions of 10 CFR 50.55a(g).

Date of issuance: April 18, 1984.

Effective date: April 18, 1984.

Amendment No. 57.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register.** December 21, 1983, 48 FR 56508.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Dates of applications for amendment: March 22, 1978, as supplemented April 20, and October 26, 1983, and request dated September 26, 1983.

Brief description of amendment: Revise the Technical Specifications to change the plant pressure temperature limits to accommodate changes in transition temperature that could occur over 10 effective full power years of operation and to change the reporting requirements for the reactor materials surveillance specimens to conform to changes in 10 CFR 50, Appendix H.

Date of issuance: April 18, 1984.

Effective date: April 18, 1984.

Amendment No. 58.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register:** August 23, 1983 48 FR 38410 and December 21, 1983, 48 FR 56507.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: January 9, 1984.

Description of amendment request: The amendment changes the limiting values of the Minimum Critical Power Ratio (MCPR) and the support bases.

Date of issuance: May 1, 1984.

Effective date: May 1, 1984.

Amendment No. 59.

Facility Operating License No. DPR–63. Amendment revised the technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10738.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: January 5, 1984.

Description of amendment request: This revision to the Techncial Specifications deletes Limiting Conditions for Operation, surveillance requirements and changes to the bases relating to isolation valves and instrumentation which automatically isolated the emergency condensers. These changes support the changing of system isolation from automatic to manual on indications of high radiation.

Date of issuance: May 8, 1984.

Effective date: May 8, 1984.

Amendment No. 60.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10737.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: January 30, 1984.

Description of amendment request: The amendment revises the Technical Specifications to add calibration requirements for the Main Steam Isolation and Turbine Stop Valve closure automatic scram instrumentation at the facility.

Date of issuance: May 8, 1984.

Effective date: May 8, 1984.

Amendment No. 61.

Facility Operating License No. DPR–63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10738.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Northern State Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 10, 1982, as revised on July 29, 1983.

Brief description of amendment: The revisions to the Technical Specifications allow plant operation with a vent or drain valve in the scram discharge volume to be inoperable and the redundant valve operable.

Date of issuance: May 1, 1984.

Effective date: May 1, 1984.

Amendment No. 24

Facility Operating License No. DPR–22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10739.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: February 14, 1984, as supplemented by letters dated March 28, April 4 and 16, 1984.

Brief description of amendment: The amendment authorized changes to the Fort Calhoun Station, Unit No. 1 Technical Specifications which were required to support the operation of the unit at full rated power during Cycle 9. Specifically, the following specifications were changed: minimum departure from nucleate boiling (DNB) ratio, total unrodded planar radial peak, unrodded integrated total radial peak, lower bound of the moderator temperature coefficient and linear heat rate measurement-calculation uncertainty factor. Because these specifications were changed, the following figures were changed; Thermal Margin/Low Pressure Safety Limit, Thermal Margin/Low Pressure Limiting Safety System Settings, Limiting Condition for Operation for Excore Monitoring and Linear Heat Rate, Limiting Condition for Operation for DNB Monitoring, and F_R^T and F_{xy}^T and Core Power Limitations. A steam generator differential pressure reactor protective system trip was also added to the technical specifications. Instrument Operating Requirements and Minimum Frequencies for Checks, Calibration, and Testing were added for this new trip.

The amendment also revised the Technical Specifications for the reactor coolant system pressure-temperature limits for operation to 8.5 effective full power years. The current technical specifications permit operations to 7.0 effective full power years, which will occur during Cycle 9 operation. This necessitated a change in the following figure: Heatup-Reactor Not Critical, Cooldown-Reactor Not Critical, and Predicted Radiation Induced NDTT Shift. Last, the amendment deleted the spent fuel inspection requirements.

Date of issuance: April 26, 1984.

Effective date: April 26, 1984.

Amendment No. 77.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984 at 49 FR 10740.

The notice in the **Federal Register** addressed the proposed Technical Specifications (TS) contained in the February 14, 1984 application. Supplemental information was received from the licensee by letters dated March 28, April 4 and 16, 1984. The supplemental information further clarified the bases for the TS and did not alter the proposed TS except for a minor clarification in the TS regarding the RCS flow rate. We therefore concluded that supplemental information provided by the licensee did not affect the substance of the information provided in the March 22, 1984 notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pacific Gas and Electric Company, Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of amendment request: July 1, 1983.

Brief description of amendment: The change would require certain actions to be taken if the ocean water temperature exceeds 64°F to ensure adequate ultimate heat sink capacity.

Date of issuance: April 13, 1984.

Effective date: April 13, 1984.

Amendment No. 8.

Facility Operating License No. DPR–76: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** October 17, 1983 (48 FR 47077).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 13, 1983.

No significant hazards consideration comments received.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: August 20, 1979, as revised October 28, 1980 and August 9, 1982.

Brief description of amendment: Revises the license to add a requirement to implement the security force training and qualification plan in accordance with 10 CFR 73.55(b)(4) and Appendix B of 10 CFR 73.

Date of issuance: April 20, 1984.

Effective date: April 20, 1984.

Amendment No. 77.

Facility Operating License No. DPR–59. Amendment revised the license.

Date of initial notice in **Federal Register:** January 26, 1984, 49 FR 3351.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 20, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: June 4, 1982 as supplemented February 18, 1983 and application dated February 25, 1983.

Brief description of amendment: The amendment revises Appendices A and B of the Technical Specifications to reflect on-site and off-site organizational changes and changes in audit frequencies for emergency preparedness and safeguards contingency plans.

Date of issuance: April 24, 1984.

Effective date: April 24, 1984.

Amendment No. 78.

Facility Operating License No. DPR–59. Amendment revised the license.

Date of initial notice in **Federal Register:** August 23, 1983, 48 FR 38418 and February 24, 1984, 49 FR 7040.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 28, 1983.

Brief description of amendment: The amendment revises the minimum critical power ratio (MCPR) operating limits to restore the MCPR safety margin which was reduced as a result of changes in control valve operation. These changes resulted from valve modifications made to permit a change from partial arc to full arc turbine steam admission.

Date of issuance: May 8, 1984.

Effective date: May 8, 1984.

Amendment No. 79.

Facility Operating License No. DPR-59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1984, 49 FR 10742.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: December 20, 1983.

Description of amendment request: The proposed amendment would approve changes to the Technical Specifications (TS) which would allow a planned fuel design change from Exxon Nuclear Company (ENC) fuel to the Westinghouse 14 x 14 9-grid Optimized Fuel Assembly (OFA) fuel with core loadings ranging from approximately a 15% OFA and 85% ENC fueled core to a core fueled entirely with OFA.

Date of issuance: May 1, 1984.

Effective date: May 1, 1984.

Amendment No. 61.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1984 (49 FR 10591).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 155 South Avenue, Rochester, New York 14604.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: July 22, 1983.

Brief description of amendment: The amendment changes the Technical Specifications regarding containment structural integrity to correct the values listed for the hoop tendons and substitute some tendons for those already listed for surveillance.

Date of issuance: April 16, 1984.

Effective date: April 16, 1984.

Amendment No.: 22.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 2, 1983 (48 FR 50638).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 16, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington, Streets, Winnsboro, South Carolina 29218.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Dates of application for amendment: November 16, 1983.

Brief description of amendment: The amendment changes the Technical Specifications by adding a limiting condition for operation concerning feedwater isolation valve (FWIV) operability and adding surveillance requirements for FWIVs.

Date of issuance: April 16, 1984.

Effective date: April 16, 1984.

Amendment No.: 23.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3354).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 16, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington, Streets, Winnsboro, South Carolina 29218.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: August 4, 1983.

Brief description of amendment: The amendment modifies the Technical Specifications to change the control room ventilation system air flow from 20,000 CFM ± 10% to 21,270 CFM ± 10%.

Date of issuance: April 25, 1984.

Effective date: April 25, 1984.

Amendment No.: 24.

Facility Operating Licensing No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1984 (49 FR 7041).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: July 20, 1983 as modified by letters dated September 7, 1983, October 25, 1983 and January 27, 1984. The latter two letters provided clarify information and added an additional constraint to the Technical Specifications in response to staff requests.

Brief description of amendment: The amendment modifies the Technical Specification to: (1) Permit boron dilution when containment integrity is not intact if a shutdown margin greater than 5% $\Delta k/k$ is maintained, and (2) change the requirement for shutdown margin while the vessel head is not fully tensioned or is removed from a boron concentration of 2900 ppm (sufficient to maintain the reactor subcritical by approximately 10%$\Delta k/k$ with all rods inserted) to the more restrictive of a shutdown margin of 5%$\Delta k/k$ or a minimum boron concentration of 2,000 ppm.

Date of issuance: April 23, 1984.

Effective date: April 23, 1984.

Amendment No.: 73.

Provisional Operating Licensing N. DPR-13. This amendment modifies the Technical Specifications.

Date initial notice in **Federal Register:** November 22, 1983 (48 FR 52826).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Southern California Edison Company, et al, Docket Nos. 50-206/361/362 San Onofre Nuclear Generating Station, Unit Nos. 1, 2, and 3, San Diego County, California

Date of application for amendments: August 9, 1983, as supported October 27, 1983, and as revised, December 16, 1983.

Brief description of amendment: The amendments approve Security Plan revisions which : (1) Completely revise the previously-approved plan using the format of NUREG-0908 which eliminates much of the redundancy and extraneous detail; (2) Provide for a single protected area by eliminating the access control point between Unit 1 and Units 2 and 3; (3) Redefine the duties of the guardtower security officers; (4) Change requalification time pursuant to 10 CFR 73.55(b)(4) from 6 months to 12 months; (5) Specify in detail requirements for package search pursuant to 10 CFR 73.55(d)(3); (6) Move certain details of security training program and equipment to site procedures and revise the security procedures management system; (7) Decrease key inventory frequency to annual basis (which is within NRC acceptance criteria); (8) Reduce Protected Areas and Protected Area barrier patrols frequency by a half (which is also within NRC acceptance criteria); (9) Delete reference to GSA specification WA00450B and add a description of alarm system line supervision; (10) Add specific compensatory security posts at failed or by-passed intrusion detection zones; (11) Modify search procedures; (12) Restructure lists of vital and non-vital equipment; (13) Add a commitment regarding central alarm station operator duties; and (14) Provide additional details regarding audits.

Date of Issuance: April 26, 1984.

Effective date: April 26, 1984.

Amendment Nos. 74, 22 and 10.

Operating License Nos. DPR-13, NPF-10, and NPF-15, respectively. The amendments revise the licenses.

Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56510) The Commission's related evaluation of this action is contained in its Safety Evaluation dated April 26, 1984. No public or State comments were received with respect to the Commission's proposed determination that the requested action would not involve significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: February 1, 1983.

Brief description of amendment: The amendments change the Technical Specifications to add a requirement that the licensee perform an audit of the Safeguards Contingency Plan every twelve months.

Date of issuance: April 23, 1984.

Effective date: april 23, 1984.

Amendment Nos. 95, 89 and 62.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register.** November 22, 1983, 48 FR 52833.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation date April 23, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: April 28, 1983.

Brief description of amendment: These amendments change the Technical Specifications to directly list the specific condition which causes the automatic actuation of Group 7 isolation valves instead of the current listing of the initiating event which ultimately causes a Group 7 valve isolation.

Date of issuance: April 24, 1984.

Effective date: April 24, 1984.

Amendment Nos. 96, 90 and 63.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983, 48 FR 52833.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: April 7, 1983.

Brief description of amendment: These amendments change the Technical Specifications to correct an inadvertent omission of the instrument channel for Turbine Control Valve Fast Closure or Turbine Trip from the Reactor Protection System (SCRAM) Instrument Calibration Frequency table. The omission was caused in the earlier Amendment Nos. 85, 82 and 56 to Browns Ferry Units 1, 2 and 3, dated July 22, 1982.

Date of issuance: April 25, 1984.

Effective date: April 25, 1984.

Amendment Nos. 97, 91 and 64.

Facility Operating License Nos. DPR-33, DRP-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 22, 1983, 48 FR 52833.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: July 29, 1977 as supplemented April 24 and July 20, 1979 for Unit 3; and November 17, 1981 for Units 1 and 2.

Brief description of amendment: The amendments change the Technical Specifications by referencing 10 CFR 50.55a(g) for inservice inspection requirements, rather than a specific description of a unique inservice inspection program. This change permits the Technical Specifications to remain consistent with updated inservice inspection programs required by the Regulations.

Date of issuance: April 30, 1984.

Effective date: April 30, 1984.

Amendment Nos. 98, 92 and 65.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983, 48 FR 52827.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-327 Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendment: December 29, 1983.

Brief description of amendment: The amendment changes the Technical Specifications to modify the surveillance requirements for testing of containment penetration fuses. The Notice of Consideration of Amendment erroneously stated that the proposed amendment would extend the period during which nondestructive testing of fuses would be allowed for Unit 1 in a manner similar to an extension already granted for Unit 2 (pending completion of an NRC generic review of proposed technical specifications). In fact, Unit 2 had previously been granted an extension only until Cycle 2; the proposed amendment requested an extension for both units pending completion of the NRC review.

With respect to Unit 1, this error does not affect the description of the amendment nor the Commission's basis for its proposed no significant hazards consideration determination.

Date of issuance: April 12, 1984.

Effective date: April 12, 1984.

Amendment No.: 34.

Facility Operating License No. DPR-77: Amendment revised Technical Specifications.

Date of initial notice in Federal Register: February 24, 1984 (49 FR 7045).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: October 28, 1980, supplemented January 9, 1984.

Brief description of amendments: The amendments change the fire pump discharge head to 231 feet to reflect pump design conditions.

Date of issuance: April 20, 1984.

Effective date: April 20, 1984.

Amendment Nos.: 96 and 95.

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1984 (49 FR 7049) Significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: December 10, 1981.

Brief description of amendments: The amendments provide limiting conditions for operation relating to instrument power supply system equipment updgrades currently underway at Point Beach Nuclear Plant, Units 1 and 2.

Date of issuance: April 30, 1984.

Effective date: Upon completion of equipment installation but not later then December 31, 1984.

Amendment Nos.: 84 and 88.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983, 48 FR 33076 and March 22, 1984, 49 FR 10747.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendments: February 22, 1984, supplemented March 8, and April 4, 1984.

Brief description of amendments: The amendment revises the Technical Specifications related to the undervoltage trip setpoints of the primary and second level undervoltage relays for the Kewaunee engineered safeguards electrical buses.

Date of issuance: April 30, 1984.

Effective date: April 30, 1984.

Amendment No. 53.

Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 13, 1984 (49 FR 9517).

The letters dated March 8 and April 4, 1984 did not alter the Technical Specifications proposed by the February 22, 1984, application but provided clarifying information. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1984. Significant hazards consideration comments received: None.

Local Public Document Room location: University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment

immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment. If the Commission has prepared an Environmental Impact Appraisal related to the action, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Impact Appraisal, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 22, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Indiana and Michigan Electric Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: April 24, 1984.

Brief description of amendment: The amendment authorizes an emergency Technical Specification change to allow thirty (30) fuel assemblies to be discharged from the reactor vessel with only one source range flux monitor operable. This change is approved for a one time only operation and the change

will no longer be in effect once the last of the thirty fuel assemblies are removed from the vessel.

Date of issuance: April 25, 1984.

Effective date: April 25, 1984.

Amendment No. 62.

Facility Operating License No. DPR-74. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a letter dated April 25, 1984.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland this 15th day of May, 1984.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 84-13703 Filed 5-22-84; 8:45 am]

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Wednesday
May 23, 1984

Part III

Environmental Protection Agency

40 CFR Part 60

Review and Proposed Amendment of Standards of Performance for New Stationary Sources—Secondary Brass and Bronze Ingot Production Plants

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2557-8]

Review and Proposed Amendment of Standards of Performance for New Stationary Sources—Secondary Brass and Bronze Ingot Production Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review and proposed amendment.

SUMMARY: A review of the standards of performance for secondary brass and bronze ingot production plants (40 CFR Part 60, Subpart M) has been completed. This notice summarizes information gathered during the review and proposes three amendments to the existing standards to clarify applicability of the standards and to specify the use of Reference Method 9 for visible emissions observations.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the findings of this review.

DATES: *Comment.* Comments must be received on or before June 22, 1984.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by June 13, 1984 (3 weeks after pub.), a public hearing will be held on July 10, 1984 (about 45 days after proposal) beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request To Speak at Hearing. Persons wishing to present oral testimony must contact EPA by June 13, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131) Attention Docket Number A-83-06. U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Emission Standards and Engineering Division, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Review Document. The review document, which summarizes information gathered during the review, may be obtained from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Review of Standards of Performance for Secondary Brass and Bronze Plants. EPA-450/3-84-009."

Docket. Docket No. A-83-06, containing information gathered during the review is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: On Policy Issues: Mr. Doug Bell, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

On Technical Issues: Mr. James Crowder, Industrial Studies Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5601.

SUPPLEMENTARY INFORMATION

Background

The new source performance standards (NSPS) for secondary brass and bronze ingot production plants were proposed on June 11, 1973 (38 FR 15406), and promulgated by the EPA on March 8, 1974 (39 FR 9309). The secondary brass and bronze NSPS applies to reverberatory and electric furnaces of 1,000 kilogram (kg) (2,205 pound [lb]) or greater production capacity and blast (cupola) furnaces of 250 kilogram per hour (kg/h) (550 pound per hour [lb/h]) or greater production capacity, constructed or modified on or after June 11, 1973. The standards regulate particulate matter emissions collected during charging and refining phases and exhausted to the atmosphere through control devices. The numerical emission limits are based on the use of fabric filters, which have been identified as the best demonstrated technology for controlling particlate matter emissions in this industry. For reverberatory furnaces, the concentration of particulate matter emissions in the exhaust gases must not exceed 50 milligrams per dry standard cubic meter (mg/dscm) (0.22 grains per dry standard cubic foot [gr/dscf]) and the opacity of visible emissions must not exceed 20 percent. For electric and blast (cupola) furnaces, the opacity of visible emissions must not exceed 10 percent.

The standards do not contain requirements for the continuous monitoring of particulate matter emissions. Reference test methods specified by the NSPS are Method 5 for determining the concentration of particulate matter emissions and the associated moisture content, Method 1 for sample and velocity traverses, Method 2 for velocity and volumetric flow rates, and Method 3 for gas analysis. In addition, Reference Method 9 is specified at 40 CFR 60.11(b) for determining the opacity of visible emissions.

As required by Section 111(a)(1) of the Clean Air Act, the promulgated standards reflected application of "the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." For convenience, this is referred to as "best demonstrated technology," or "BDT."

Section 111(b)(1)(B) required review and, if appropirate, revision of NSPS every 4 years. A principal purpose of this review is to ensure that the standards reflect a current assessment of best demonstrated technology. Thus, if there now exists an adequately demonstrated technology that yields greater emission reduction than required by the standards, more stringent standards will be proposed reflecting the performance of that technology. On the other hand, if the standard is found to require application of technology that is not adequately demonstrated (for either technical or cost reasons, for example), less stringent standards will be proposed reflecting the best technology that is adequately demonstrated.

The first 4-year review of the NSPS for brass and bronze ingot production plants was completed in 1979. At that time, only two reverberatory furnances were subject to, and in compliance with, the NSPS. This review found no reasons to make any changes to the existing standards of performance.

The second review of the standards of performance for secondary brass and bronze ingot production plants has recently been completed. The findings of this review are presented in the following sections of this notice. The first two sections summarize the industry growth and changes in emission control technology that have occurred since proposal of the NSPS.

Subsequent sections discuss the findings of the review for each of the secondary brass and bronze facilities regulated by the NSPS and clarify applicability of the standards.

Findings and Conclusions

Industry Growth

In 1973, approximately 258,500 megagrams (Mg) (285,000 tons) of brass and bronze ingot were produced at 60 plants. By 1982, production has declined to 154,200 Mg (170,000 tons), and 37 plants were in operation. Despite this decline, five rotary reverberatory furnaces and one electric induction furnace have been installed since the NSPS were proposed and are, therefore, subject to its provisions. Most of this growth has occurred since the NSPS was reviewed in 1979; only two rotary reverberatory furnaces were reported subject to the NSPS in 1979. No blast (cupola) furnaces have become subject to the NSPS. No furnaces of any type have become subject to the NSPS through modification or reconstruction.

Growth in the number of affected reverberatory and electric furnaces is expected to continue at the combined rate of approximately one new furnace per year. These new furnaces will absorb capacity lost when plants close; provide production flexibility to make plants more competitive; replace outdated, inefficient equipment; and provide production facilities near market areas. No new blast (cupola) furnaces are expected. Projected growth in the number of electric induction furnaces reflects the development of a new production process in which brass is continuously cast as strip or rod from an electric furnace, instead of batch cast into ingots.

Best Demonstrated Technology

The existing standards are based on the use of fabric filter control technology. No significant changes have occurred in control technology for the affected sources since the last 4-year review. Wet scrubbers typically are unable to provide the level of control required under the NSPS. Electrostatic precipitators (ESP's) are not good collectors of metal oxides because of the relatively high resistivity of such particles.

Compliance test results, State and local control agency inspection reports, and observations during plant visits in the review show all operational affected NSPS facilities are in compliance with the NSPS.

Reverberatory Furnaces

Five rotary reverberatory furnaces at four facilities are currently subject to the NSPS. One of these furnances is not yet operational and has not been tested. Each of the affected furnaces uses a baghouse as the primary means of particulate control. The four operational furnaces are in compliance with the 50 mg/dscm (0.9022 gr/dscf) particulate emission standard and the 20 percent visible emission limit. Thus, compliance with this standard reduces emissions from each of these furnaces by approximately 1,425 tons per year over uncontrolled emission levels. The particulate emission rate determined by Reference Method 5 for these furnaces ranged from 4.5 to 41.8 mg/dscm (0.002 to 0.0184 gr/dscf).

These test data indicate that proposing more stringent particulate and visible emission standards for existing and new NSPS furnaces might be appropriate. Therefore, the environmental and cost impacts associated with these changes were investigated.

A more stringent particulate mass emission standard could be proposed by reducing the "margin of safety" between the highest fabric filter mass emission test result reported during this review (0.0184 gr/dscf) and the current standard (0.022 gr/dscf). However, this would have little positive environmental impact for existing NSPS furnaces beyond requiring more frequent or thorough maintenance checks. The more stringent standard would not impact the operation of the *existing* NSPS fabric filters because their outlet emissions would be below the standard, and because fabric filters are "constant outlet" devices when properly maintained.

A more stringent standard would reduce emissions from *new* NSPS reverberatory furnace fabric filters. For example, a standard of 0.0052 gr/dscf might be proposed for reverberatory furnace fabric filters based on technology transfer from steel mill electric arc furnace fabric filters. However, to ensure that reverberatory furnaces would comply with this emission level, fabric filter vendors would design new units with increased air-to-cloth ratios. These more conservative designs would increase the total capital costs for new fabric filters. For example, the incremental cost effectiveness associated with a 0.0052 gr/dscf emission standard and a 20 percent increase in air-to-cloth would be $3,400 per ton of particulate matter removed. Considering the magnitude of this cost effectiveness impact and the fact that this expenditure would result in an emission decrease of no more than 9 tons annually per affected facility, a more stringent mass emission standard for new reverberatory furnaces is not considered to be appropriate.

A more stringent visible emission standard seems to be indicated because the measured visible emissions from all furnace fabric filters tested during the review were less than the standard by a significant margin. However, to establish such a standard we would need to demonstrate its achievability at the particulate matter mass emission standard under the most adverse conditions that would be encountered during normal operation in this industry. This would require expensive mass and visible emission testing and analysis of several furnace baghouses. Moreover, a more stringent visible emission standard will not improve the operation of existing NSPS fabric filters, all of which are in compliance with the mass emission standard. In conclusion, a more stringent visible emission standard is not considered to be appropriate because a significant expenditure of Agency resources would not result in a measurable emission reduction.

Mass emission currently are collected and controlled during the charging, melting, and refining phases of furnace operation. Fugitive particulate matter emissions are typically captured either with overhead hooding or with charging enclosures. Some emissions do escape capture during furnace charging and tapping. Mass emission data are not available to quantify fugitive emission rates. Although specialized hooding systems, made of such materials as canvas, are used to capture tapping emissions, their effectiveness is limited. This is because personnel need access to the tapping area, thus preventing the optimum location of hoods. Visible emission observations made during the review indicated that tapping emissions are not significant.

An engineering analysis was undertaken to estimate the fugitive mass emission rates during charging and tapping and the costs of controlling these emissions with large overhead canopy hoods. The study indicated that from a typical reverberatory furnace, about 3 tons of particulate matter escape capture and control annually. The total annualized costs of capturing and controlling those emissions would be about $25,000 per ton. Because of these high costs, the Agency does not judge such fugitive emission controls to be adequately demonstrated within the meaning of Section 111. Therefore, no

standard reflecting their use is appropriate.

Most States use a process weight equation to establish a mass emission standard for reverberatory furnaces that is equivalent to about 63.6 mg/dscm (0.028 gr/dscf). Since this level is near that of the NSPS, there is unlikely to be a discernible difference in the emission rate of a furnace complying with the typical State limit and an otherwise identical furnace complying with the NSPS.

The capital and annualized costs of air pollution control equipment and associated ductwork, pumps, etc., necessary for a typical plant to meet either the most common State implementation plan (SIP) or the NSPS are approximately $540,000 and $190,000, respectively. An analysis of the economic impact of the NSPS indicates that, at most, a 0.4 percent product price increase would be expected at a typical plant as a result of the NSPS.

Because there are no discernible differences in emission rates or control equipment costs for facilities meeting either the predominant State standard or the NSPS, there is no incremental cost effectiveness between the two standards. Based on new furnace parameters, however, the average cost effectiveness of the NSPS compared to an uncontrolled facility is estimated to be $135 per ton of particulate matter emission reduction.

In conclusion, the performance standard for reverberatory furnaces continues to reflect the performance of BDT, and the costs and economic impacts associated with this technology are considered to be reasonable. Therefore, no changes in the standard are proposed at this time.

Blast Furnaces

No blast (cupola) furnaces were located that have been constructed or modified since the NSPS were proposed in 1973, and no new furnaces of this type are expected in the near future. Should any be constructed, baghouses would be used to comply with the performance standard for these facilities for the reasons outlined in the Best Demonstrated Technology section of this notice.

Electric Furnaces

One electric furnace has been installed since the NSPS was proposed. This furnace, which is used to continuously cast rod rather than to batch cast ingot, was installed in 1980 in a prototype mini-mill in Ohio. The State of Ohio, under the State BACT regulation, applies a 0 percent opacity visible emission standard and a 50 mg/dscm (0.022 gr/dscf) mass emission limit to this electric induction furnace. The emission rates and collection and control technology for this production process are identical to those for electric furnaces used to cast ingot. The facility is controlled by a baghouse and has a particulate emission rate of 12.8 mg/dscm (0.0056 gr/dscf) (determined by Reference Method 5) and visible emissions with 0 percent opacity (determined by Reference Method 9). The furnace is, therefore, in compliance with both the NSPS visible emission standard of 10 percent opacity and with the State mass and opacity regulations. Based on these data, then, compliance with the NSPS results in an annual emission reduction of approximately 90 tons over uncontrolled levels.

The test data for this facility indicate that proposing a particulate matter mass emission standard and a more stringent visible emission standard might be appropriate. However, these test data alone do not constitute an adequate data base from which to establish additional or more stringent standards of performance. This is because the test data do not represent the degree of emission reduction that could be achieved by facilities melting dirty scrap. Thus, as discussed in detail above (see *Reverberatory Furnaces*), a costly Agency testing and analysis program would need to be conducted to support these standards. However, this program would result in little positive environmental impact. This is because the existing visible emission standard is adequate to require installation of fabric filter control, which is considered to be best demonstrated technology for control of electric furnace emissions, and because of the "constant outlet" nature of fabric filters. Therefore, a particulate matter mass emission standard and more stringent visible emission standard are not considered to be appropriate at this time.

Most States apply the same process weight equation used to determine emission limits for reverberatory furnaces to also determine emission limits for electric furnaces. Because typical electric furnaces process brass and bronze at the same rate as do typical reverberatory furnaces, the same State standard applies, 63.6 mg/dscm (0.028/dscf). Because both this mass emission standard and the NSPS visible emission standard are based on the use of baghouses, no additional capital expenditures are necessary to meet the NSPS limit beyond those necessary to comply with these State requirements.

The capital cost for fabric filter control needed to meet either the most common SIP or the NSPS visible emission standards is approximately $290,000. Because there are no significant differences in either emission rates or control equipment costs for facilities meeting either the predominant State standard or the NSPS, there would be no incremental cost effectiveness between the two standards. The average cost effectiveness of the NSPS for electric furnaces is estimated to be $1,500 per ton compared to an uncontrolled facility.

No changes to the NSPS for electric furnaces are being proposed because the standard continues to reflect the level of performance achievable with BDT. While the cost effectiveness of this standard is higher than that for reverberatory furnaces, it is nevertheless well within the range of costs for control of particulate matter emissions imposed by other NSPS and is, therefore, considered to be reasonable.

Applicability

As noted in the discussion on electric furnaces, a new production process has been developed in which brass can be continuously cast from an electric furnace in the shape of rods, instead of batch cast into individual ingots. Because the title of the NSPS specifically refers to ingot production plants, it is unclear that facilities using this new process would be subject to the NSPS.

The original standards, promulgated in 1974, explicitly apply to facilities that melt, smelt, or otherwise cast brass or bronze into intermediate products such as ingot. It was not intended that the standards apply to foundry furnaces, which cast brass or bronze into the shape of final products. All brass and bronze production facilities in operation at the time the standards were developed produced only ingot; thus, the term "ingot production plants" was used in the title so that foundries would clearly be excluded from the standard. Because rod continuously cast from electric furnaces is considered to be an intermediate product, and because there are no significant differences in emissions, collection and control technology, and emission control costs for electric furnaces producing either ingot or continuously cast rod, continuous casting electric furnaces are considered to be subject to the NSPS also.

Therefore, it is proposed to amend the NSPS to reflect this conclusion by deleting the word "ingot" from the title and text of the regulation. Additionally, it is proposed to amend § 60.130 of the

regulation to explicitly exclude foundry furnaces that cast brass or bronze into the shape of finished products from the standards.

Monitoring Requirements and Test Methods

Currently, the NSPS does not require continuous emission monitoring of particulate matter emissions at the control device outlet. During this review, therefore, the reasonableness of adding such a requirement was analyzed. This analysis indicated that the capital cost impact of continuous opacity monitoring a baghouse exhaust gases in this industry would be high relative to the potential enforcement or emission reduction benefits which would result from continuous monitoring. For example, the $30,000 total capital cost of a reputable transmissometer represents about 6 percent of the cost of baghouse controlling emissions from a brass and bronze reverberatory furnace, and about 0.5 percent of the cost of a baghouse controlling emissions from an electric arc furnace in a carbon steel production shop. The low controlled emission rate of about 12 tons per year from brass and bronze baghouse, coupled with the high cost impacts of transmissometers, argue against adopting such a requirement for this industry. Therefore, a continuous emission monitoring requirement has not been included in the revised standards.

The NSPS does not specify a test method for making visible emission observations of the exhaust gases during compliance testing. Instead, the use of EPA Reference Method 9 is specified for this purpose in the General Provisions that apply to all standards of performance [40 CFR Part 60, Subpart A, Section 60.11(b)]. To remove any ambiguity that might exist by omitting mention of Reference Method 9 in the NSPS, the regulation is being amended to specify that Reference Method 9 will be used to make visible emissions observations during compliance testing.

Public Hearing

A public hearing will be held, if requested, to discuss the findings of this review in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. If a hearing is requested, persons wishing to make oral presentation should contact the EPA at the address given in the **ADDRESSES** section of this preamble. 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 should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble and should refer to the docket number OAQPS A–83–06.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal-working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this review. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (RFA), the impacts of the standards on small businesses were considered. Applicable guidelines define a small business as "any business concern which is independently owned and operated and not dominant in its field as defined by the Small Business Administration Regulations under Section 3 of the Small Business Act." The Small Business Administration has determined that any firm classified in the SIC 3341 (which includes secondary brass and bronze plants) that employes less than 500 workers will be considered small in regard to the Small Business Act.

It is quite possible that some secondary brass and bronze plants qualify as small businesses and are affected by the standards. If a substantial number of small businesses are affected by a regulation and any of the following four criteria are met, the impact of the regulation on a small business is considered significant.

Under the first criterion, the impact is judged to be significant if the regulation causes the average total cost of production to increase by 5 percent or more. The standards do not cause an increase in the average total cost of production as high as 5 percent. Because the NSPS has resulted in a product price increase of only approximately 0.4 percent, the impacts of the standards on small businesses are not significant.

The second criterion for significance relates compliance costs to sales for small versus large businesses. If compliance costs as a percent of sales for small businesses are at least 10 percent higher than compliance costs as a percent of sales for large businesses, the impact is judged to be significant. The total annualized cost of compliance as a percent of sales is much less than 10 percent greater for a small plant than for a large plant. The small business impact of the standards is not significant by this measure.

A third criterion to measure the significance of an impact on small businesses compares the capital cost of compliance with the capital available to small firms. It is difficult to determine how much capital is available to a firm. However, all firms are currently required to meet SIP regulations which have been shown to require the same control equipment as that for compliance to the NSPS. Therefore, the capital costs of compliance with the NSPS do not represent a significant portion of capital available to small businesses.

The fourth criterion for significance is whether the regulation is likely to result in closures of small businesses. An analysis performed as part of this review indicates the production of brass and bronze has been declining over the past 17 years. This is largely because of product substitution. The cost impacts of the NSPS, however, have not been significant and have not resulted in closures of any kind.

The standards, therefore, do not have a significant impact on small businesses.

Miscellaneous

As prescribed by Section 111 of the Clean Air Act, establishment of standards of performance for secondary brass and bronze plants was preceded by the Administrator's determination that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this review was preceded by consultation with independent experts and Federal departments and agencies. The Administrator will welcome comments on all aspects of the review, including economic and technological issues.

This regulation will be reviewed again 4 years from the date of this review as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any

new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared during this review, and all aspects of the assessment were considered to ensure that cost was carefully considered in determining both the best demonstrated technology and the reasonableness of alternative regulatory requirements. The economic impact assessment is included in the background information document for the proposed standards.

In addition to economics, the cost effectiveness of the standards was also evaluated in order to assure that the controls required by this rule are reasonable relative to other particulate matter regulations. In this case, the standards reduce particulate matter from reverberatory and electric furnaces at an average cost effectiveness of about $135 and $1,500 per ton, respectively. The cost effectiveness of the standard for blast (cupola) furnaces was not determined because none of these facilities have become subject to the NSPS. Additional detail on costs can be found in the background information document.

This review was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to the EPA and any EPA response to those comments are available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Under Executive Order 12291, the EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers, Lime.

Dated: May 15, 1985.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 60, Subpart M is proposed to be amended as follows:

1. The title of the subpart is revised to read as follows:

Subpart M—Standards of Performance for Secondary Brass and Bronze Production Plants.

2. In § 60.130, paragraph (a) is revised to read as follows:

§ 60.130 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in secondary brass or bronze production plants: Reverberatory and electric furnaces of 1,000 kg (2,205 lb) or greater production capacity and blast (cupola) furnaces of 250 kg/h (550 lb/h) or greater production capacity. Furnaces from which molten brass or bronze are cast into the shape of finished products, such as foundry furnaces, are not considered to be affected facilities.

* * * * *

3. In § 60.133, paragraphs (a)(3) and (a)(4) are revised and paragraph (a)(5) is added to read as follows:

* * * * *

(a) * * *

(3) Method 2 for velocity and volumetric flow rate,

(4) Method 3 for gas analysis, and

(5) Method 9 for visual determination of the opacity of emissions.

(Secs. 111 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7411 and 7601 (a))

[FR Doc. 84-13679 Filed 5-22-84; 8:45 am]

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federal register

Wednesday
May 23, 1984

Part IV

Environmental Protection Agency

40 CFR Part 765

Formaldehyde; Determination of Significant Risk; Advance Notice of Proposed Rulemaking and Notice

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 765

[OPTS-62033; FRL 2581-5]

Formaldehyde; Determination of Significant Risk

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Advanced notice of proposed rulemaking (ANPR).

SUMMARY: On November 18, 1983, EPA announced in the **Federal Register** its decision to rescind its previous decision that section 4(f) of the Toxic Substances Control Act (TSCA) did not apply to formaldehyde and to reconsider the issue. The public was asked to comment on whether formaldehyde should be given priority consideration under section 4(f). After reviewing the public comments and the health and exposure data relevant to formaldehyde, EPA has determined that section 4(f) does apply to two formaldehyde exposure categories. The exposures which led to this so-called "trigger" decision are those associated with manufacture of apparel from fabrics treated with formaldehyde-based resin are used. In addition, EPA is simultaneously announcing a second decision, which fulfills the statutory requirement to "initiate appropriate action," be made at the same time as the "trigger" decision, nor has EPA done so in previous cases where the Agency has found section 4(f) to be applicable to a chemical. However, the Agency believes that intitiation of an investigation at this time is appropriate for formaldehyde because of the length of time that this chemical has been under Agency review and because of the particular circumstance surrounding this substance. EPA expects that on future section 4(f) decisions, the decision to conduct a regulatory investigation will not be made until after the "trigger" decision. The Agency invites interested parties to submit data and comments relevant to the control of exposure to formaldehyde in the areas on which its regulatory investigation will be focused.

DATE: All comments must be received by July 23, 1984.

ADDRESS: Since some comments may contain Confidential Business Information (CBI), all comments should be sent in triplicate to: Document Control Office (TS-793), Office of Toxic Substances, Evironmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS 62033. Comments received on this ANPR, except those containing CBI, will be available for review and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, toll-free: (800-424-9065), in Washington, D.C.: (554-1404), outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: As published in the **Federal Register** of November 18, 1983 (48 FR 52507), EPA rescinded its previous decision that section 4(f) did not apply to formaldehyde. EPA stated that it would determine by May 18, 1984, whether section 4(f) does apply to formaldehyde. Comments were solicited from the public. This notice announces EPA's decision and explains the basis for the decision.

I. Notice Outline

This notice is organized as follows: Unit II. TSCA Section 4(f) summarizes the legislative language of this statutory provision and how EPA views that language. Unit III. Summary of EPA's Section 4(f) Decision summarizes EPA's decision on formaldehyde. Unit IV. Background describes: (1) The history of EPA's section 4(f) decision on formaldehyde, (2) the Consensus Workshop on Formaldehyde, (3) the process established for the present determination, and (4) addresses comments on EPA's decision to reconsider. Unit V. Basis for EPA's Determination presents a discussion of the major factors considered in EPA's determination such as EPA's cancer policy, animal tests, epidemiology data exposure data, quantitative risk analysis calculations, and EPA's reasons for the decision. Unit VI. Regulatory investigation discusses EPA's planned regulatory action and related activities of other Federal agencies. Unit VII. Confidential business information discusses how EPA will handle this kind of information. Unit VIII. Public Record and Unit IX. References are self-explanatory. EPA's responses to the principal comments received in response to EPA's November 18, 1983, **Federal Register** notice can be found in the pertinent Units.

II. TSCA Section 4(f)

A. *Legislative Language*

Under section 4(f) of TSCA, if EPA receives test data or other information—

> " " " which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall, within the 180-day period beginning on the date of the receipt of such data or information, initiate appropriate action under section 5, 6, or 7 [of TSCA] to prevent or reduce to a sufficient extent such risk or publish in the **Federal Register** a finding that such risk is not unreasonable.

Thus, there are two decisions to make under section 4(f) before a chemical is to be afforded priority regulatory attention. First, EPA must make the section 4(f) threshold determination that available information on a chemical indicates there "may be a reasonable basis to conclude" that the chemical presents a "significant risk of serious or widespread harm to humans from cancer, gene mutations, or birth defects." Second, if the threshold determination is made, the Agency is obligated to decide quickly whether to initiate regulatory action.

B. *How EPA Views Section 4(f)*

The purpose of section 4(f) is to focus the Agency's attention on chemicals that pose potentially high risks to people from cancer, gene mutations, or birth defects. by setting a 180-day deadline, the statute ensures that Agency resources will be immediately devoted to assessing whether action should be initiated to prevent or control the risks.

Section 4(f) applies to only a limited set of human health effects. Health effects other than cancer, gene mutations, or birth defects, as well as environmental effects, are not included under section 4(f). In addition, this priority review is not for all chemicals with the three biological effects of concern, but rather only for those which the available information indicates may cause "significant risk of serious or widespread harm." To decide whether this test is met for any particular chemical, EPA must analyze factors which permit predictions of risk, namely: (1) The chemical's hazardous properties, and (2) the questions of how many people are or will be exposed to how much of the chemical for how long. Once a determination of the risk posed by a chemical is made, it is necessary to determine if this represents a "significant risk of serious or widespread harm." While the terms "significant risk of serious harm" and "significant risk of widespread harm" are not defined by TSCA, the language of the statute indicates that both standards reflect attempts to define

situations of apparent gravity. The "significant risk of serious harm" standard covers situations in which persons are exposed to particularly high risks. The "significant risk of widespread harm" standard covers situations in which the risks to exposed individuals are somewhat lower, but the number of persons exposed is very large. This is borne out by the legislative history of section 7(f) of TSCA which utilizes the terms "serious or widespread injury" as part of the definition of "imminently hazardous chemical substances" against which EPA may seek injunctive relief. Congress indicated [H.R. Rep. No. 1679, 94th Cong., 2d Sess. 78 (1976) (Conference Report)] that "widespread injury" was intended to refer to a "risk affecting a substantial number of people." The term "serious" was distinguished from "widespread" by the fact that if a risk is "serious" it need not be "widespread" to meet the criteria for action under section 7(f). Within these relatively broad statutory boundaries, the application of these standards involves the exercise of discretion informed by policy.

Thus, the determination that a chemical problem meets the section 4(f) threshold and should receive section 4(f) priority involves an examination of the chemical's potential to cause any of the three designated effects, the likelihood of harmful exposure levels, and the number of persons exposed.

If EPA does not find section 4(f) applicable in a given case, this does not necessarily indicate a decision by the Agency not to pursue regulatory consideration. It means only that based on currently available information EPA does not consider the risk to meet the statutory standards for triggering expedited consideration under section 4(f) of TSCA. Likewise, a section 4(f) determination does not presuppose regulation.

A draft document containing EPA's working interpretation of section 4(f) and the criteria for applying it, will be available to the public in the near future.

III. Summary of EPA's Section 4(f) Decision

After review of the scientific data and public comments relevant to formaldehyde, EPA has determined that there may be a reasonable basis to conclude that certain exposures to formaldehyde present or will present a significant risk of widespread harm to human beings from cancer. The exposures which triggered this decision are those associated with manufacture of apparel from fabrics treated with formaldehyde resins and residence in conventional and manufactured (mobile) homes containing construction materials in which certain formaldehyde resins are used. It is with respect to these two exposures that EPA believes the criteria of section 4(f) are met. The baisi for this determination can be found in Unit V of this notice. This determination is based on EPA's evaluation of the hazard and exposure data and the risks estimated by mathematical models. The use of these models is discussed in Unit V.C.1. Calculation of Risk. EPA is also using this **Federal Register** notice to announce the start of a regulatory review of the exposure categories of concern. EPA will work with other Federal agencies, such as the Consumer Product Safety Commission (CPSC), the Occupational Safety and Health Administration (OSHA), and the Department of Housing and Urban Development (HUD) in this investigation.

As explained in Unit II.B above, a chemical risk will be found subject to section 4(f) if EPA decides that there may be a reasonable basis to conclude that a "significant risk of serious harm" or a "significant risk of widespread harm" is or will be presented. Applying these standards involves the exercise of discretion informed by policy. The following paragraphs will explain how EPA has applied these statutory standards to decide that certain exposures to formaldehyde are subject to section 4(f).

In the case of formaldehyde, and as will be the case for many chemicals evaluated by EPA, the Agency has started with data showing that formaldehyde causes cancer in animals at particular dose levels and has applied mathematical models to extrapolate from the animal dose levels to those levels to which humans would likely be exposed. These mathematical models give EPA an objective measurment of the relative risks of different chemicals and, thus, provide a mechanism to allow the Agency to set priorities. Because section 4(f) is a priority-setting provision, EPA believes it is appropriate to use these models to decide whether section 4(f) is triggered by a given chemical.

The application of the mathematical models to the animal data and the extrapolation to human dose levels results in a determination of the potential risk to individuals over their lifetimes. This is generally expressed as a probability. For example, the model extrapolations may show that certain categories of individuals exposed to formaldehyde at a given level over a given period of time could contract cancer with a probability of 1×10^{-4} which is a chance of 1 in 10,000.

The individual risk number derived from the model may then be multiplied by the number of exposed persons believed to be exposed to that dose level. That product provides an indication of how many of these persons could contract cancer.

Because of substantial variability in the doses different individuals may receive, uncertainties in the relationship between dose and risk at low doses, and variability in sensitivity to the effects of a chemical among the human population, EPA generally uses for its priority-setting decisions models which provide an "upper bound" of the risk, i.e., the models provide the upper 95 percent confidence limit. This is a statistical method for estimating the range in which the true risk may lie. The true risk is not likely to be higher than the "upper bound" estimate, but it could be lower. This has been done in the case of EPA's evaluations of formaldehyde's cancer risks. Thus, the calculations performed using those models should not be interpreted as predictions of the actual number of cancer cases that may occur.

In determining whether a chemical risk may meet either statutory test—"significant risk of serious harm," or "significant risk of widespread harm"—EPA applies the models as described. Under the "significant risk of serious harm" test, the individual risk would be high for a population of significant size. Under the "significant risk of widespread harm" test, the individual risk calculation may be lower, but the large number of persons exposed would lead to a potential for a significant number of persons in the population to be injured by the effect under consideration.

IV. Background

A. *History of the Section 4(f) Decision*

In November 1979, EPA received information that the interim results of a 24-month rat bioassay conducted by the Chemical Industry Institute of Toxicology (CIIT) showed that a number of the rats had developed nasal cancer after inhalation of formaldehyde.

In November of 1980, the Federal Panel on Formaldehyde, formed by several Federal agencies under the aegis of the National Toxicology Program, Published a report finding that CIIT's bioassay methodology was consistent with accepted testing standards. Using the data available through the 18-month point of the CIIT study, the Federal Panel concluded that "formaldehyde should be presumed to pose a risk of cancer to humans." Also in November

1980, CIIT presented the preliminary results of the full study. CIIT pathologists reported finding statistically significant increases, as compared with controls, in the incidence of malignant tumors in rats exposed to formaldehyde vapor at the highest of the three levels they tested.

In February 1982, based on its evaluation of the toxicity and exposure data on formaldehyde then available, EPA decided that, although fromaldehyde had been found to be carcinogenic under the conditions of the test, the available information as to formaldehyde's cancer risk to humans did not meet the statutory criteria for priority designation under section 4(f) of TSCA.

The decision process generated considerable controversy and formed the basis for a lawsuit by the Natural Resources Defense Council (NRDC) and the American Public Health Association (APHA) (*NRDC* v. *Ruckelshaus*, No. 83–2039, filed in the United States District Court for the District of Columbia, July 18, 1983).

In view of public controversy concerning the process and policy issues associated with the Agency's previous section 4(f) decision on formaldehyde, EPA announced in the **Federal Register** of November 18, 1983 (48 FR 52507) its decision to rescind its February 1982 decision, and to ask the public to submit views, arguments, and data relevant to determining whether formaldehyde should be given priorty consideration under section 4(f) of TSCA. EPA stated that it would not as a general rule obtain public comment before deciding whether the threshold criteria of section 4(f) are met, but believed that public comment was important in this case. Comments were due at EPA by January 17, 1984; EPA announced that it expected to reach a new decision by May 18, 1984. Pursuant to agreement among the parties in *NRDC* v. *Ruckelshaus*, that proceeding has been stayed to permit EPA the time to reevaluate its position on whether formaldehdye meets the section 4(f) threshold.

B. *Consensus Workshop on Formaldehyde*

As discussed in the November 18, 1983 notice, to assist its evaluation of formaldehyde the Agency funded the National Center for Toxicological Research to sponsor a Consensus Workshop on Formaldehyde (the Workshop). The Workshop was held in Little Rock, Arkansas from October 3 through 6, 1983. Over 60 government, industry, university, and public interest organization scientists served on the following eight Panels: (1) Exposure; (2) Epidemiology; (3) Carcinogenicity/Histopathology/Genotoxicity; (4) Immunology/Sensitization/Irritation; (5) Structure Activity/Biochemistry/Metabolism; (6) Reproduction/Teratology; (7) Behavior/Neurotoxicity/Psychological Effects; and (8) Risk Estimation. Each Panel (except the Risk Estimation Panel) was charged with the task of reviewing the major scientific studies relevant to that Panel's area. Also, the Panel members were asked to address a number of Discussion Topics and prepare a consensus report addressing those topics. For example, the Carcinogenicity Panel addressed the following topics among others: what conclusions can be drawn from the available experimental data relative to the carcinogenicity and genotoxicity of formaldehyde? What role does cytotoxicity of formaldehyde play in its carcinogenicity in experimental animals? What do genotoxicity studies tell us about the potential of formaldehyde to be an initiator or promotor for carcinogenesis or a mutagen in somatic or germ cells?

When the Panels were finished, they provided draft reports to the Risk Estimation Panel. The Risk Estimation Panel was charged with the task of determining how the data could be integrated to make reasonable risk estimates for humans exposed to formaldehyde at various levels and through different routes. Draft Panel reports were available to help the Agency in its section 4(f) determination. These are available for review in the public record for this action.

C. *Mechanism for Review*

EPA treated formaldehyde in accordance with its section 4(f) policy described above. Starting in December 1983, EPA analyzed the data, such as cancer, mutagenicity, metabolism, epidemiologic, and exposure data, which are relevant to a determination of carcinogenic risk. Once this was completed, a quantitative risk analysis was prepared. This involved integrating the hazard and exposure data with the use of a number of mathematical models that are commonly used to estimate the carcinogenic risk to humans from animal data. Other biological factors relevant to the evaluation of the carcinogenic risk were considered, such as the role of cytotoxicity, the mucous layer, endogenous formaldehyde, and formaldehyde's physical and chemical properties. Numerous public comments were reviewed, responded to, and integrated into the ongoing analyses as necessary. Also, EPA reviewed and used draft panel reports from the Workshop.

During EPA's current section 4(f) determination, no meetings with the public have occurred. The public's input has been limited to comments in response to the notice published in the **Federal Register** of November 18, 1983. All comments received are available for viewing by the public (see Unit VIII for location and hours).

D. *Comments on EPA's Decision to Reconsider*

This section discusses the comments received on the general scope of section 4(f) and its applicability to formaldehyde.

The principal issue is reflected in the opposing views expressed in *NRDC* v. *Ruckelshaus*. In the opinion of the NRDC the section 4(f) trigger decision—that a chemical presents a significant risk of serious or widespread harm from cancer—is not a decision to regulate, but only a way to set priorities within the Agency. Thus, the trigger decision is only preliminary, has a relatively low threshold, and does not require a high level of evidentiary certainty. These groups focus on the statutory language stating that section 4(f) is triggered if there "may be a reasonable basis to conclude" that a chemical causes the effect of concern. In their view, formaldehyde easily meets this trigger because EPA received a cancer study showing that the chemical causes cancer in animals, an outside group of scientists decided the study was valid, and large numbers of people are exposed to the chemical. NRDC further argues that section 4(f) precludes EPA from examining different exposure scenarios and levels for different groups of people exposed to formaldehyde. In their view, merely a general determination that large groups of people are exposed to a potential human carcinogen is sufficient to trigger section 4(f). In contrast, industry groups argue that section 4(f) should be reserved for chemicals that pose unusual and grave risks to humans and that EPA should have clear evidence of this risk before invoking section 4(f). The industry groups focus on the extremely short time (180 days) EPA has between making the 4(f) trigger decision and making the second 4(f) decision either to initiate regulatory action or find that the risk is not unreasonable. They reason that 180 days is not a sufficient amount of time to develop a regulatory proposal or to conduct detailed economic investigations to determine that a risk is not unreasonable. Consequently, they argue, EPA must have data clearly showing that a chemical poses a

significant risk of serious or widespread harm before invoking section 4(f).

EPA's view of section 4(f) is between these two extremes. EPA believes that section 4(f) applies to those chemical risks that have the potential to cause grave injury even though the evidence allows formation of only a preliminary viewpoint. Thus, while section 4(f) applies to high priority chemical risks, EPA does not need to show that concern by a high level of evidence.

EPA's interpretation focuses on the statutory language as a whole. The requirement that there "may be a reasonable basis to conclude" indicates that the level of evidence is not as high as that needed for regulation. Under TSCA, regulation is warranted if there "is" a reasonable basis to conclude. The requirement that EPA find a "significant risk of serious or widespread harm" indicates that the Agency is to examine only those risks of high concern under section 4(f). Because section 4(f) is a priority-setting mechanism, EPA must rank chemical risks according to the relative levels of concern they present to public health. Accordingly, it is within EPA's discretion to use mathematical models to assist in this ranking and it is an appropriate application of section 4(f) to focus on different exposure scenarios among different groups of people. Thus, EPA may apply the section 4(f) designation to specific formaldehyde uses which result in risks to specifically-designated populations.

To adopt either the views of NRDC or the industry groups could seriously defeat EPA's ability to adequately protect public health. The low threshold view of section 4(f) would result in placing chemicals on a regulatory priority that do not present a "significant risk of serious or widespread harm," thus restricting EPA's ability to focus attention on the truly serious risks for which section 4(f) was intended. The industry view, which would have the Agency delay action until evidence shows clear risk, would defeat the remedial nature of TSCA. TSCA is meant to allow EPA to act to prevent risks from occurring. If EPA had to wait for clear evidence before setting priorities under section 4(f), much damage could be done before the Agency could act.

EPA's view of section 4(f) also avoids some of the more extreme consequences of the NRDC and industry views. Under the NRDC view, numerous regulatory actions would be initiated for chemicals that may not present actual risks. Under the industry view, a declaration that a chemical tiggers section 4(f) would be a sign of a dire emergency and may send incorrect signals to the public. EPA wishes to make it clear that today's decision on formaldehyde does not mean that the Agency believes the chemical presents short-term emergency risks. Rather, there is a cause for concern and EPA intends to investigate seriously the problem on a priority basis. Information available to the Agency does not indicate that people should substantially change their habits if they are being exposed to some level of formaldehyde.

A number of commenters disagreed with EPA's decision to reconsider its previous formaldehyde section 4(f) determination for a number of reasons. They have argued that EPA's first decision was correct and that, unless new medical evidence is presented that formaldehyde presents a carcinogenic risk to humans, EPA should not reconsider. Public controversy, according to these commenters, should not be a basis for rescinding an Agency decision. To the extent that new evidence may be uncovered by the Workshop, EPA should wait until the final reports are in and properly assessed before it decides to reconsider its formaldehyde decision. Finally, commenters argue that a decision by the United States Court of Appeals for the Fifth Circuit overturning regulation of urea-formaldehyde foam insulation (UFFI) (701 F.2d 1137) by the Consumer Product Safety Commission shows that there is no substantial basis to consider formaldehyde under section 4(f).

EPA disagrees with these comments. Reconsideration of EPA's formaldehyde section 4(f) decision was dictated by public controversy that called into question the objectivity of EPA's scientific analysis and policy decisions. A number of questions were raised regarding EPA's adherence to its own cancer policy guidelines. Meetings were held with selected members of the public, which appeared to some persons to be inappropriate. When such questions are raised about EPA's procedures and policies, it is incumbent on the Agency to rectify the situation. Rather than contribute further to the public controversy, EPA decided to remove any appearance to taint in its decision and submit the entire formaldehyde section 4(f) process to a public administrative forum. Thus, EPA believes that its decision to revoke the earlier section 4(f) decision and reconsider it was justified.

Since the reasons stated above adequately justify EPA's decision to reconsider its formaldehyde decision, new medical evidence on formaldehyde is not a prerequisite to such reconsideration. Nor is new evidence ever a prerequisite to any decision to reconsider EPA policy decisions on chemicals subject to its regulatory jurisdiction. EPA may reconsider decisions as long as it presents its reasons and adequately justifies the change. For example, changes in the interpretation of evidence already in EPA's possession also could support modification of Agency decisions.

Further, EPA does not believe it needs to wait for final assessment of Workshop results before it makes its formaldehyde section 4(f) decision. This argument is, in EPA's view, another aspect of the argument that the Agency should wait for clear evidence before it makes decisions under section 4(f). As stated above, such a delay could defeat the remedial intent of TSCA. In any event, EPA has had access to all draft Workshop reports and is confident that the Workshop's position on topics critical to EPA's decision would change only in the face of substantial new data, new data to which the Agency would have access.

EPA also disagrees with the comments that argue that the Fifth Circuit decision in the UFFI case affects EPA's ability to consider formaldehyde under section 4(f). That decision applied only to one product, which apparently is no longer manufactured. EPA's decision today affects entirely different products. Furthermore, the section 4(f) decision is far more preliminary than the final regulatory action considered by the Court in the UFFI case. Thus, the reasoning applied does not affect today's decision under any interpretation of the Court's opinion. It is important to note, moreover, that the UFFI opinion did not reject CPSC's determination that formaldehyde presents a risk of cancer to humans. Rather, the Court found that CPSC's exposure analysis did not support the regulatory action.

Finally, commenters stated that EPA should not consider formaldehyde under section 4(f) because TSCA is not the appropriate mechanism to regulate any of the significant risks that formaldehyde may present. These commenters argue that EPA should defer to other Federal agencies capable of regulating formaldehyde risks, such as the Occupational Safety and Health Administration and the Department of Housing and Urban Development. Also, they note that, since formaldehyde is ubiquitous in the environment and occurs naturally in the atmosphere and in human cells, there is no regulatory option under TSCA.

EPA believes that these comments are not applicable to today's decision. This decision relates to the toxicity and

exposure potential of the chemical. Regulatory options are chosen at a later stage. Indeed, EPA may determine that other Federal agencies should actually regulate the risks from formaldehyde. This subsequent determination will not affect the decisions under section 4(f) of TSCA. Similarly, the ubiquitous nature of formaldehyde is no reason to preclude considering the chemical under section 4(f). Regulatory options may still be effective. A perceived inability to control natural sources, for instance, will not dissuade EPA from controlling the contribution to exposure from man-made sources. In the case of formaldehyde, even though much formaldehyde is produced photochemically in the atmosphere and results in some low level exposure to everyone, the high exposure categories occur as a result of direct industrial production and use of formaldehyde-containing products.

V. Basis for EPA's Determination

The discussions in Units V. A, B, and C below cover EPA's conclusions and answers to comments about the available information on formaldehyde's toxicity, current exposures of human populations, and, finally, EPA's estimates of risk to exposed populations. These are the three areas of inquiry for a section 4(f) decision. A brief summary of pertinent EPA policy is presented at the beginning of the discussion.

A. *Toxicity—Carcinogenicity*

1. *Effect of concern.* The three effects of concern under section 4(f) are cancer, gene mutations, and birth defects. The Agency has determined that there are animal cancer data on formaldehyde that can be used to estimate human cancer risk. This will be explained more fully below. There is no clear evidence linking formaldehyde to birth defects or to mutations in mammalian germ cells. The latter are the kinds of mutations EPA regards as within the scope of section 4(f). Mutations in germ cells can lead to heritable diseases and birth defects. Tests which demonstrate mutations in other types of cells are used in the investigation of a chemical's carcinogenic properties. Examination of results from these tests is a part of carcinogenic risk assessment.

Accordingly, the present section 4(f) determination has been limited to whether there may be a reasonable basis to conclude that formaldehyde presents or will present a significant risk of serious or widespread harm to human beings from cancer.

2. *Cancer policy.* The Agency stated in the November 1983 notice announcing its reconsideration of section 4(f) applicability to formaldehyde that in its reconsideration "the Agency will apply the principles stated in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessments of Suspected Carcinogens, published in the **Federal Register** of May 25, 1976 (41 FR 21402)."

The guidelines specify that the Agency should use a weight of evidence approach in deciding if a chemical is a potential carcinogen in humans. That is, the guidelines describe three tiers for strength of evidence, as follows: (1) The best evidence that a chemical is a human carcinogen comes from epidemiological studies in conjunction with confirmatory animal tests; (2) substantial evidence is provided by animal tests that demonstrate the induction of malignant tumors (or benign tumors that are generally recognized as early stages of malignancies) in one or more species; (3) suggestive evidence includes the induction of only those non life-shortening benign tumors which are generally accepted as not progressing to malignancy, and indirect tests of tumorigenic activity, such as mutagenicity, *in vitro* cell transformation, and initiation/promotion skin tests in mice. Other evidence that bears on judgments of carcinogenicity, such as structure-activity relationships, are included in the assessment.

EPA believes that the available animal test data show that formaldehyde is an animal carcinogen. As discussed below, formaldehyde is carcinogenic in males and females of one strain of rats and in males of another strain, and there is suggestive evidence in mice. In the CIIT test, formaldehyde produced tumors of a type with very low background rates after a short latency period and with a dose-response relationship. Also, the tumors were invasive locally. Negative studies in other species, in this case the hamster, do not reduce the weight given to the positive findings.

Other data support the bioassay data. Formaldehyde's mutagenic potential has been shown in a number of tests and it has been shown to be a weak promoter in cell culture and on mouse skin. Formaldehyde has been shown to be capable of eliciting benign tumors at concentrations which fall within human exposure ranges and malignant tumors within an order of magnitude of human exposure. In addition, other aldehydes which are structurally similar to formaldehyde, such as acetaldehyde, acroleinaldehyde, malondialdehyde, and glycidaldehyde, have been shown to have oncogenic effects. Finally, existing epidemiologic data cannot be relied on to prove or disprove that formaldehyde is a carcinogen in humans.

Consequently, EPA has determined that by its 1976 critieria there is sufficient evidence to conclude that formaldehyde is a potential carcinogen in humans. EPA's analysis of the applicable data is explained below.

3. *Animal data.* The first long-term study reporting a carcinogenic response in animals to inhalation of formaldehyde is one by CIIT which reported statistically significant (the statistical assurance that the effect is not due to chance) increased levels of squamous cell carcinomas (malignant tumors) in the nasal cavities of rats at 14.3 parts per million (ppm) (Ref. 1). In this study, groups of approximately 120 male and 120 female rats (Fischer 344 strain) and mice (C57BL/6 × C3HF strain), were exposed by inhalation to 0, 2.0, 5.6, or 14.3 ppm of formaldehyde gas for 6 hours per day, 5 days per week, for 24 months. Squamous cell carcinomas were observed in the nasal cavities of 103 rats (52 females and 51 males) and 2 male mice exposed to 14.3 ppm and in 2 rats (one male and one female) exposed to 5.6 ppm of formaldehyde gas. The incidence of nasal carcinomas in rats showed a dose-response relationship.

Although the two squamous carcinomas in mice at 14 ppm were not considered by the investigators to be statistically significant in comparison with the incidence in control mice in the study, the finding is considerd by EPA to suggest that the effect is formaldehyde exposure-related because the natural background rate for such nasal cancers is very low in this strain of mice. The difference in susceptibility of rats and mice may be due, in part, to a greater reduction in respiratory minute volume (reduced volumetric breathing rate) in mice than in rats during exposure to an irritating agent. In addition to the squamous cell carcinomas, small numbers of benign tumors characterized by pathology examination as polypoid adenomas were observed in the rats at each dose level. These benign tumors did not exhibit a dose-response relationship. However, because this type of benign nasal tumor is rare it is likely related to formaldehyde exposure. EPA considers the benign tumors observed in the CIIT rat study to be an indication of significant pathology at low doses. These tumors were not included in the present quantitative risk assessment because a group of pathologists who reviewed these tumors recommended that they not be combined with the squamous cell carcinomas for statistical purposes because there is not

morphological evidence that polypoid adenomas progress to squamous cell carcinomas (Ref. 2). This was the recommendation of the Carcinogenicity Panel also. However, consideration will be given to the benign tumors in further assessing formaldehyde's risks as part of the Agency's regulatory investigation.

Other studies support the results of the CIIT study. In two studies carried out by Albert et al. (Ref. 3), rats were exposed for life by inhalation to formaldehyde alone, mixtures of hydrochloric acid (HCl) and formaldehyde, or HCl alone.

In the first study, 99 male rats were exposed to a mixture of HCl and formaldehyde (premixed at high concentrations before introduction into the exposure chamber to maximize the production of bis(chloromethyl) ether (BCME)). This was done because the investigators were studying the hazard associated with the use of HCl and formaldehyde in close proximity in the workplace. A report had linked the production of BCME from mixing HCl and formaldehyde gas. The average concentrations were 10 ppm HCl 14 ppm formaldehyde, and about 1.0 part per billion (ppb) BCME. Of the 99 animals exposed to the test mixture, 25 developed squamous cell carcinomas of the nose. The contribution by the BCME was thought to be minimal because the expected response to 1.0 ppb was estimated to be less than 1.5 percent and there was a 25 percent incidence of nasal tumors in the study.

The second Albert study, in which male rats (100 per group) were exposed to HCl alone (10.2 ppm), premixed HCl-formaldehyde mixture (14.3 ppm formaldehyde/10.0 ppm HCl), nonpremixed formaldehyde-HCl mixture (14.1 ppm formaldehyde/9.5 ppm HCl), or formaldehyde alone (14.2 ppm), showed statistically significant numbers of squamous cell carcinomas of the nasal cavity in the rats exposed to formaldehyde alone and the HCl-formaldehyde mixtures. A control group of 100 rats was used. No nasal cancers were seen in the HCl-only exposed rats or in the controls. Also, it appeared that the irritant HCl gas did not enhance the carcinogenic response because the frequency of tumors was similar in the formaldehyde alone and formaldehyde-HCl groups.

Other studies, such as Dalbey (Ref. 4); and Rusch et al. (Ref. 5) have not shown a significant carcinogenic response to formaldehyde in the hamster. However, these studies suffer from certain weaknesses such as inadequate pathology (only two microscopic sections of the nose were examined in the Dalbey study) and short duration (six months for the Rusch study), which makes it difficult to rely upon the negative results as being reliable for the endpoint in question.

EPA concludes that there is credible evidence to show that formaldehyde is carcinogenic in rats, and that there is suggestive evidence in mice.

4. *Epidemiology.* The body of epidemiologic data cannot be used to support the hypothesis that formaldehyde is not a human carcinogen and, thus, cannot be used to negate the animal data. Although several studies show significant increases in leukemia and brain cancer among individuals potentially exposed to formaldehyde, the data do not demonstrate that formaldehyde exposure is a cause of human cancer. EPA's evaluation of the epidemiology is summarized in this section and explained in greater detail in the administrative record for this proceeding.

a. *EPA's analysis.* Formaldehyde has been and is the subject of many epidemiologic studies. Fourteen major studies and several minor studies were reviewed by EPA. To reach a decision regarding whether a particular study showed any association with specific cancers, EPA evaluated the conclusions reached by the investigators and the power of the study to detect specific cancer outcomes. The power of a study is its ability to detect true association of the exposure and disease. If a study is likely to conclude that the exposure to a particular chemical is not associated with a disease, when in fact an association exists, the study has a low power to detect that association. The ability of a well-conducted study to detect an increased risk depends upon such factors as sample size, years of follow-up, magnitude of the increased risk, background incidence of the disease among the population, desired statistical significance of the conclusion, and the type of statistical analyses used by the study investigators.

The completed epidemiologic studies of these populations have reported excess cancer risks among textile workers, garment workers, brickmasons, shoemakers, leather workers, film processors, paint-lacquer-glue workers, chemical workers, and certain medically related professions—pathologists, morticians, embalmers, and anatomists.

Although the studies considered by EPA are of cohort or case-control design—designs essential for inferring causality from epidemiologic studies—inferences regarding specific chemicals cannot be drawn at this time. A major limitation of the studies is their inability to separate the contributions of formaldehyde from the contributions of other occupational exposures. Other limitations include small sample sizes and inadequate control for confounding variables such as smoking in the analyses. Last, a working population is generally healthier than the total population and will tend to show lower mortality when compared to the general population.

One outcome of the limitations has been low power in each study to detect small relative risks for the rarer forms of cancer. For specific cancers, the completed epidemiologic studies do not have sufficient power to detect, at the formaldehyde levels to which the medically related professions may be exposed, increased risks of 100 percent or less (these risks were calculated from the coefficients obtained from the 3-stage mutlistage model using the animal data).

While the individual studies lack adequate power to detect specific cancer outcomes, acceptable statistical methods may be employed in order to obtain a general perspective on the total evidence available and to increase power. The Epidemiology Panel combined observed and expected numbers of cancer deaths for specific sites from both standard mortality ratio (SMR) and proportionate mortality ratio (PMR) studies. EPA combined the results of several studies according to Fisher's method for combining probabilities. As a result of their analyses the Epidemiology Panel concluded that the medically related professions have a significantly increased mortality from leukemia and brain cancer. EPA concluded that: (1) For SMR studies, brain cancer mortality is significantly elevated among the medically related professions and among the medically related professions and chemical workers together, and (2) for PMR studies, leukemia and brain cancer mortality is significantly elevated among the medically related professions.

These analyses by EPA and the Epidemiology Panel, however, do not causally link formaldehyde exposure with cancer. Formaldehyde exposure is a major exposure among the medically related professions, but exposures to dyes, solvents and other organic chemicals as well as pathogenic organisms also occur. Indications that formaldehyde may not be the causal agent comes from epidemiologic studies of other occupational groups who may be exposed to similar agents, these studies also report excesses in leukemia and brain cancer.

In summary the epidemiologic studies of the medically related professions are

not adequate to identify formaldehyde as the cause of the leukemia and brain cancer mortality. As the Epidemiology Panel stated: "Aside from formaldehyde and human tissue, however, it is unclear what other important occupational exposures these professional groups shared."

b. *Response to comments.* Commenters have argued that because formaldehyde has been widely used for many years and available epidemiologic studies have not shown a link between formaldehyde and nasal and other cancers, the risk to humans of formaldehyde exposure must be insignificant.

As the above analysis shows, while EPA agrees that the body of epidemiologic data does not link formaldehyde directly with human carcinogenesis, neither does it show the absence of such a link. Furthermore, the wide use of formaldehyde for many years does not necessarily improve the chances of detecting increased relative risk. Increases of cancer risk of 10, 20 or even 50 percent are difficult to detect in most epidemiologic studies. As explained in EPA's analysis of the epidemiologic data, this principle holds true for formaldehyde. It would take an epidemiologic study of immense proportions to detect significant increases in risk in the general population. Even then, it would be difficult to link an increase to a particular exposure due to interference from confounding factors such as diet, smoking and exposures to other chemicals. Occupational studies, where higher exposures occur, are also difficult to interpret because of exposures to other chemicals.

Commenters argue that the brain cancer and leukemia that show up in the epidemiologic studies cannot be attributed to formaldehyde and thus rule out formaldehyde as a human carcinogen. They give two reasons. First, for known carcinogens, cancer in humans generally occurs at the same site where it is observed in animal studies. There is an 80 percent site concordance between the incidence of tumors in animal tests and in man. Accordingly, they argue, if formaldehyde were a human carcinogen, cancer of the respiratory system would be expected since only nasal cancer was observed in the animal tests. Second, because formaldehyde is rapidly metabolized by the human body, it is highly unlikely that it would travel to points in the body beyond the site of contact.

EPA disagrees. The epidemiologic studies cannot be used to rule out the potential of formaldehyde to cause cancers in humans other than respiratory system cancer. Cancer site concordance between animals and humans is not sufficiently established to exclude examination of all cancer sites. EPA chooses to emphasize that twenty percent of the known carcinogens do nto show a site concordance between animals and humans and, therefore, believes it is a prudent policy not to exclude from epidemiologic evaluation cancers at sites other than those appearing in animal studies. Furthermore, since nasal cancers rank among the more rare cancers, few epidemiologic studies would have sufficient power to detect an increased risk at this site.

Finally, the fact that formaldehyde is rapidly metabolized does not prove that the chemical could not be transferred in the blood stream to any number of sites in the body.

A commenter cited four studies not previously considered by EPA or the Epidemiology Panel. These studies by Jensen and Anderson (Ref. 6), Doll and Peto (Ref. 7), Goldmann et at. (Ref. 8), and the New Zealand Department of Health (Ref. 9) report no association between formaldehyde exposure and cancer.

EPA disagrees that these studies can support a determination of no cancer causality for formaldehyde for reasons explained below.

Generally, inferences of cancer causality in epidemiologic studies come from well designed cohort or case-control studies. The studies need to be of a sufficient size to detect increased risk. Increased risk, if present, must be great enough to be detectable by statistical techniques which control for random variation, biases, and confounding variables. None of the studies citied by the commenter fulfills these criteria, and, thus, they cannot be used to prove that formaldehyde does not present a cancer risk.

Jensen and Anderson (Ref. 6) examined only 85 lung cancer cases among physicians in Denmark. This sample size is not large enough to detect increased risk, if such risk were present. Also, Jensen and Anderson (Ref. 6) do not control for smoking, a major risk factor for lung cancer. Doll and Peto (Ref. 7) grouped three cancer sites—lung, esophygeal, and mouth—together. Such aggregation may have hidden any single contribution from one cancer site. The Goldmann et al. (Ref. 8) and the New Zealand Department of Health (Ref. 9) are not cohort or case-control design studies. Thus, they do not fulfill generally accepted criteria for inferring causality.

5. *Genotoxicity.* Formaldehyde is mutagenic in a number of *in vitro* studies and there are suggestive *in vivo* studies. This supports the carcinogenicity data from the CIIT and Albert studies and reinforces the view that formaldehyde operates by some type of genetic interaction.

Formaldehyde has caused genetic changes in *Drosophila* larvae, fungi, bacteria, mammalian cells, and human cells. Induction of single-strand breaks in DNA, sister chromatid exchanges, NDA-protein crosslinks, and chromosome aberrations have been reported. Other *in vitro* tests show that formaldehyde can transform BALB/c 3T3 mouse cells, BHK 21 hamster cells, and C3H/10T1/2 mouse cells. The Carcinogenicity Panel of the Workshop found that the data reviewed "are consistent with formaldehyde acting as a weak mutagen."

In vivo evidence is generally negative, although marginal results were seen in a dominant lethal test and a small increase in sister chromatid exchanges in mouse bone marrow has been reported.

6. *Metabolism.* The hydration and polymerization of formaldehyde are rapid and extensive. These reactions remove formaldehyde even when it is formed inside of cells. Amino compounds in cells react with formaldehyde to produce derivatives which dissociate very little. The quantity of formaldehyde present in a cell, tissue or organ is dependent upon the quantities of amino compounds present and the dissociation constants (a measure of the ability of the compounds to split) of the derivatives formed with formaldehyde. The half-life of formaldehyde administered intraperitoneally to rats, guinea pigs, rabbits, cats and dogs is estimated to be about one minute. Similarly, the half-life of formaldehyde was estimated to be 1.5 minutes when infused intravenously into monkeys. It has been well documented that, when formaldehyde is oxidized *in vivo*, the product is formic acid which is subsequently oxidized to carbon dioxide and water.

Formaldehyde and other compounds are carcinogenic in animals even though they are rapidly metabolized. The rapid metabolism may be a relatively greater protective factor at low doses than at high doses, but EPA cannot quantify this for formaldehyde; it needs further investigation. The rapidity of formaldehyde's metabolism also supports an expectation that formaldehyde will exert its greatest effects at the point of its introduction into the body, i.e., in the respiration tract

upon inhalation. This is supported by the Structure Activity Panel of the Workshop which stated:

> Despite its rapid removal, the possibility exists that transient increases in formaldehyde may occur in the intact animal. The Panel could not exclude the possibility that formaldehyde may be transported to, and exert toxic effects at, distant sites following inhalation, but definitive evidence for effects of formaldehyde *per se* at distant sites is lacking.

7. *Structure-activity relationships.* Formaldehyde is structurally similar to other aldehydes such as acetaldehyde, acroleinaldehyde, malondialdehyde and glycidaldehyde. These aldehydes have been shown to have oncogenic effects. For instance acetaldehyde has produced tumors of the nose and larynx in hamsters by inhalation and glycidaldehyde has produced skin tumors in mice in skin painting tests. The conclusion that formaldehyde is carcinogenic is consistent with this association between structure and effects.

8. *Comments about human risk.* Commenters have suggested several reasons for EPA to find that formaldehyde does not present a cancer risk to humans at present exposures. These reasons include: hypotheses that there is a threshold level of exposure at which formaldehyde will cause cancer and that this threshold is above current levels of exposure; a suggested role of the respiratory mucous layer in acting as a barrier to formaldehyde; and a suggestion that low amounts of formaldehyde can be handled normally by cells without carcinogenic results. In addition, some have suggested that EPA use the least sensitive species of animal in which formaldehyde has been tested, rather than the rat, in predicting the human response.

EPA's decision is based on currently available data. Both EPA and the Consensus Workshop Panels view the weight of this evidence as suggesting potential human carcinogenicity at low doses. Both EPA and the Panels have acknowledged that factors such as cytotoxicity and the mucous layer may play a role; however, neither has concluded that the weight of evidence presently supports using these factors as a basis for finding low dose exposures to be free from risk. Further consideration of these factors is appropriate.

a. *Threshold--in general.* EPA's Cancer Policy explains that the evidence for a no-threshold concept of cancer induction emerged in the debate over the health effects of radioactive fallout from atomic weapons in the 1950's. This concept supports the idea that any exposure, however small, will confer some risk of cancer on the exposed population. The Cancer Policy further states that evidence has accumulated that the no-threshold concept can also be applied to chemical carcinogens (41 FR 21401).

Accordingly, EPA as a matter of policy generally assumes that there is no threshold to cancer induction unless there is clear evidence for a threshold in the case of a particular chemical. In the case of formaldehyde, EPA has reviewed the available data, including information submitted by commenters, and has concluded that the available evidence does not demonstrate a threshold for formaldehyde carcinogenesis. This determination is consistent with that of the Risk Estimation Panel of the Workshop which stated:

> With regard to the possibility of a threshold dose for a tumor response, in the absence of any clear evidence for a threshold, it is misleading to assume that one exists, and the assumption of a non-threshold dose-response is more prudent (Ehrenberg et al., 1983; Lyon et al., 1983). The Panel concludes, therefore, that it is inappropriate at this time to consider a threshold model for formaldehyde carcinogenesis.

Commenters have presented three general arguments supporting a threshold for formaldehyde's carcinogenicity. These are discussed below.

b. *Threshold-cytotoxicity.* In the CIIT study there was a very steep dose-response curve, approximately a 50-fold increase in response from 5.6 ppm to 14.3 ppm, with less than a 3-fold increase in dose. This rapid increase in the response at 14.3 ppm has been attributed by some to formaldehyde's cytotoxic effects, which caused massive irritation, breakdown of mucociliary clearance function, and subsequent cell death and restorative cellular repair.

These observations have led to an hypothesis that formaldehyde's cytotoxicity has a threshold and that this threshold is also a threshold for carcinogenicity. A related hypothesis has been suggested that the cytotoxic and carcinogenic effects occur only when the protective mucous layer is broken down and that this break-down is a threshold for both effects. (The role of the mucous layer is discussed further below.) The reasoning for a cytotoxicity-related threshold is that cytotoxicity, by causing increased cell division, would increase the opportunity for carcinogenic events to be expressed. Thus, at exposure levels that do not cause cytotoxicity, the carcinogenic risk would be greatly reduced.

EPA does not believe that the available evidence demonstrates that the absence of cytotoxicity represents a practical threshold to formaldehyde's carcinogenic potential. Although EPA and the Carcinogenicity Panel acknowledge that cytotoxicity may play a role in formaldehyde's carcinogenicity, its relative contribution is unknown. Consequently, EPA cannot infer that the absence of cytotoxicity equates with a practical threshold.

c. *Threshold—observations from data.* Commenters have argued that the absence of malignant tumors at low doses in the available studies indicates a "no-effect level", or threshold, for formaldehyde carcinogenicity. Commenters specifically cite the CIIT study, which showed no malignancies at the lowest dose, and a study by Rusch, et al (Ref. 5). According to the commenters, the Rusch study showed "no adverse effects whatsoever on rats, monkeys, and hamsters exposed to 0.2 ppm, or even to 1.0 ppm of formaldehyde, 22 hours a day, seven days a week, over a period of six months * * *. The CIIT and Bio/dynamics (Rusch study) results thus indicate a practical threshold below which there is no effect even in the rat."

EPA disagrees with the conclusion expressed in these comments.

With respect to the CIIT study, it is not uncommon to see marginal or no response at the lower doses employed in a chemical bioassay. This does not mean that no effect would occur at that dose, only that studies are necessarily limited in the response that can be detected at low doses (there were groups of approximately 120 male and female rats for each dose level).

With respect to the Rusch study (Ref. 5), a number of factors prevent it from being used to support a threshold hypothesis. The study contained small test populations (groups of 6 monkeys, 40 rats, and 20 hamsters) and was of short duration (6 months). Although the total exposure time was approximately 5 times longer per week than in the CIIT study and the rats at 1 ppm in the Rusch study received 2.5 times the cumulative dose received by rats at 2.0 ppm in the 2-year CIIT study, the animals were sacrificed after 6 months and a carcinogenic response would not be likely to be observed in such a short duration. In addition, the small study populations also decreased the sensitivity of the study.

d. *Threshold—mucous layer.* The third threshold hypothesis of some commenters is that at low levels (in the current human exposure range and below the OSHA standard) the mucous

layer prevents formaldehyde from entering the underlying epithelial cells to exert its cytotoxic effects. This hypothesis would imply a threshold to formaldehyde's carcinogenic potential.

EPA views the available data as contrary to this hypothesis. The data indicate that formaldehyde passes through the mucous layer even at low doses. The mucous layer may play a protective role, but the data do not indicate that it is an absolute barrier. A recent CIIT study submitted to EPA demonstrates this (Ref. 10). Moreover, humans can detect formaldehyde odors at levels below 1 ppm; this indicates that formaldehyde can pass through the mucous layer to interact with the olfactory nerve endings. In the CIIT study, although no rats at the 2.0 ppm dose developed nasal carcinomas, 6 and possibly 9 rats in this dose group developed benign neoplasms (polypoid adenomas) as compared to 1 in control animals. These findings indicate to EPA that formaldehyde was exerting effects on the cells below the mucous layer. This determination was confirmed by the Workshop Risk Estimation Panel which recommended that "no adjustments should be made at the present time concerning the possibility that rats or humans are susceptible to non-linear alterations in the dose actually reaching a target (Ehnenberg et al., 1983) as related to the concentration of formaldehyde in air." This means that as the air concentration of formaldehyde decreases, a constant proportion should reach the target cells, rather than a decreasing proportion. The weight of evidence does not show the mucous layer to be a complete barrier to formaldehyde. The degree to which it may offer some protection from formaldehyde is unknown at present. Thus, the EPA assessment of risks from formaldehyde does not include an adjustment for such a possible protective role. Further consideration of this issue is appropriate.

e. *Formaldehyde normally in cells.* The existence of endogenous formaldehyde in cells has been suggested by some to be evidence that low levels of formaldehyde present little or no risk because human cells are constantly exposed to endogenously produced formaldehyde.

EPA does not view the existence of endogenous formaldehyde as a basis for assuming little or no risk from formaldehyde which enters from outside cells. It is likely that endogenous formaldehyde is created and utilized in enzymatic reactions without being freed from the location of the enzymes involved. Formaldehyde entering from outside the cell may have more opportunity to distribute throughout the cell, thereby increasing the chances for formaldehyde to react with the DNA of the cell. Similarly, the Structure Activity Panel was not willing to accept the endogenous formaldehyde issue as a mitigating factor in assessing formaldehyde induced carcinogenicity.

f. *Species sensitivity.* Another factor cited by commenters as possibly influencing potential human risk is species sensitivity. It was suggested that rats may be especially sensitive to formaldehyde and, thus, data from only rat studies should not be used to predict the human carcinogenic response to formaldehyde. They suggested that rats may be overly sensitive to formaldehyde and that there is little reason to believe that humans would be as sensitive as rats given the fact that other mammalian species, mice and hamsters, appear to be much less sensitive.

EPA acknowledges that different species used to test chemicals for predicting human risk possess different sensitivities any may show a wide divergence of response. However, in the absence of extensive supporting data, there is no way to predict whether a particular species will be more or less sensitive than humans to a tested chemical.

Consequently, as a matter of policy EPA chooses to use the most sensitive species to predict human risk. Even though studies on the hamster show no observed tumors, the studies do not negate the rat data and there are no data to show that the hamster's response to formaldehyde exposure is more representative of the human respones than is the rat's.

In the case of formaldehyde, moreover, existing data support the use of rats to predict human risk. The study by Rusch, et al. (Ref. 5) concluded that, "In this study, considering squamous metaplasia as the most significant observation, both the rat and monkey showed a similar response to the formaldehyde exposure." Assuming that the monkey is the species likely to be most similar to humans in its response to formaldehyde, this indicates that humans and rats should react to formaldehyde in a similar manner. EPA's position is supported by the Risk Assessment Panel of the Workshop, which stated:

> There are, however, no indications that the response by humans would be different than that exhibited by rats, mainly due to the lack of experimental data pertaining to this issue. Qualitatively, the metabolic pathways of formaldehyde in rats and humans are similar. The sites of greatest exposure may differ, since rats are obliged to breathe solely through the nose and humans may also breathe orally. Again, no information exists demonstrating that the response would be quantitatively different as a result of differences in distribution of the inhaled dose.

In addition, there is suggestive evidence that mice may actually be as sensitive as rats. This further supports the potential of human risk from formaldehyde. Because mice tend to reduce their breathing rate in the presence of an irritant gas such as formaldehyde, mice exposed to 14.3 ppm in the CIIT study may have received a dose approximately equivalent to the dose rats received at 5.6 ppm. There were two squamous carcinomas in rats at 5.6 ppm and two squamous carcinomas in mice at 14.4 ppm.

B. *Exposure*

1. *Sources and uses of formaldehyde.* Formaldehyde (CH_2O) is the simplest member of the aldehyde chemical category. It exists in many different forms. Pure monomeric formaldehyde is a colorless, pungent gas at ordinary temperatures. Aqueous formaldehyde, called formalin, is a clear, colorless, solution containing about 37 percent by weight of dissolved formaldehyde in water, usually with 10 to 15 percent methanol added to prevent polymerization. The other forms of formaldehyde are polymers, the best known of which are paraformaldehyde and trioxane (trioxymethylene).

The sources of formaldehyde can be grouped into two major categories: Direct (or commercial) production and indirect production. The chemical is not imported in any appreciable quantities.

Commercially, formaldehyde is produced from the catalytic oxidation of methanol, using either silver oxide or a mixed-metal oxide as the catalyst. Processes accounting for the indirect production of formaldehyde include the photochemical oxidation of airborne hydrocarbons released from incomplete combustion processes, the direct prodution of formaldehyde during incomplete combustion of hydrocarbons in fossil fuels and refuse, and certain natural processes.

The 1983 commercial production of formaldehyde amounted to about 6 billion pounds. The major derivatives are urea-formaldehyde resins, phenol-formaldehyde resins, acetal resins, and butanediol. The urea- and phenol-formaldehyde resins account for about 53 percent of formaldehyde production. Adhesives and plastics are the major end uses.

The "consumption" of formaldehyde can be broken down into three major

categories: nonconsumptive uses, pseudo-consumptive uses, and consumptive uses. In nonconsumptive uses, the chemical identity of the formaldehyde does not change. In pseudo-consumptive uses, the chemical identity of formaldehyde does change, but it is not irreversibly altered. Under appropriate conditions, some or all of the original formaldehyde may be regenerated. Consumptive uses, on the other hand, are those uses in which formaldehyde serves as a feedstock for the preparation of other chemicals. The derivatives are irreversibly formed and usually contain only residual levels of unreacted formaldehyde. Under extreme conditions, such as very high temperatures or highly acidic conditions, some of the derivatives may degrade and release formaldehyde.

Formaldehyde's major nonconsumptive uses are: (1) disinfectant, (2) preservative, (3) deodorant, and (4) textile and paper uses.

The major pseudo-consumptive uses are: (1) Urea-formaldehyde resins which are used in fiberboard, particleboard, plywood, laminates, urea-formaldehyde foams, molding compounds, and paper, textiles, and protective coatings; (2) urea-formaldehyde concentrates which are used to produce time-release fertilizers, and (3) hexamethylenetetramine which is used as a special anhydrous form of formaldehyde to cure resins and to treat textiles and rubber.

The major consumptive uses are: (1) Melamine-formaldehyde resins which are used for molding compounds, fiberboard, particleboard, plywood, laminates, paper and textiles, (2) phenol-formaldehyde resins which are used in fiberboard, particleboard, plywood molding compounds, and insulation; (3) pentaerythritol which is used to produce alkyd resins, (4) 1,4-butanediol which is used to produce tetrahydrofuran, (5) acetal resins which are used in the manufacture of engineering plastics, and (6) trimethylolpropane which is used in the production of urethanes.

2. *Estimates of current human exposure.* To obtain estimates of human exposure to formaldehyde and its products, the Agency commissioned a contractor study (Ref. 11). This study integrated the existing monitoring data, engineering or modeling estimates, use data, population estimates, and assessment of the likelihood of exposure from formaldehyde-related activities into an exposure assessment detailing those activities having a high formaldehyde exposure potential. The summary results of that assessment are presented in Table 1. EPA has updated some portions of Table 1 to reflect new data received in response to the **Federal Register** Notice of November 18, 1983. The data from Table 1 were used as the basis for the risk assessment. It should be noted that only the nonpesticidal uses of formaldehyde were used in the section 4(f) determination because, under section 3(2)(b)(ii) of TSCA, pesticides are not defined as chemical substances under TSCA and do not fall under the purview of section 4(f).

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TABLE 1--SUMMARY OF FORMALDEHYDE EXPOSURE ASSESSMENT

Exposed Population	Number Persons Exposed	Exposure Duration (Hrs./Wk.)	(Wks/Yr)	Exposure Level Personal / Area (ppm)
Manufacturers of CH_2O	1,400	43.2	50	A 0.46[1]/ A 0.41
Manufacturers of resins (U-F, P-F, M-F, acetal)	6,025	42.0	50	A 1.40 A 0.24
Manufacturers of hardwood plywood	6,700	39.2	50	No Data A 0.68
Manufacturers of particleboard	4,000	38.7	50	A 0.33[2]/ A 0.31
Manufacturers of wood furniture	59,000	37.8	50	No Data B 1.30 A 0.10
Manufacturers of mobile homes and related structures	31,500	37.0	50	C 0.40 C 0.40
Manufacturers of U-F foam chemicals	<50[3]/	39.8	50	A 0.49 A 0.94

Exposed Population	Number Persons Exposed	Exposure Duration (Hrs./Wk.)	(Wks/Yr)	Exposure Level Personal / Area (ppm)
Installers of U-F foam insulation	<1,000[3]/	34.7	50	A 0.52 A 0.49
Manufacturers of metal molds and castings	60,000	39.3	50	A 0.33 B 1.55 A 0.66
Manufacturers of plastic products	16,575	39.8	50	No Data B 0.26 A 0.13
Manufacturers of paper & paperboard	>9,730	44.4	50	A 0.15 A 0.42
Manufacturers of textiles	17,800	40.1	50	A 0.70 B 0.42
Manufacturers of apparel	777,000	36.0	50	A 0.64 A 0.23
Wholesale trade of apparel	66,400	36.8	50	A 0.38 A 0.12
Manufacturers of building paper and coatings	3,800	44.9	50	C 0.33[2]/ C 0.31

Exposed Population	Number Persons Exposed	Exposure Duration (Hrs./Wk.)	(Wks/Yr)	Exposure Level Personal / Area (ppm)
Manufacturers of paints and coatings	23,000	40.9	50	No Data No Data
Manufacturers of abrasive products	7,000	39.9	50	C 1.1 C 1.1
Manufacturers of asbestos products	3,500	41.2	50	C 1.1 C 1.1
Manufacturers of U-F concentrates	40	43.2	50	No Data C 0.46
Manufacturers of nitrogenous fertilizers	1,600-2,850	42.0	50	No Data A 0.84
Manufacturers of large volume CH_2O derivatives	>210	43.2	50	C 0.46 C 0.41
High school teacher	38,600	5	36	A 0.43[4]/ A 0.14
High school students	3,834,000	1	36	A 0.43[4]/ A 0.14
College/university teachers	108,600	10	36	A 0.43[4]/ A 0.14

Exposed Population	Number Persons Exposed	Exposure Duration (Hrs./Wk.)	(Wks/Yr)	Exposure Level Personal / Area (ppm)
College students	2,903,000	5	36	A 0.43[4]/ A 0.14
Medical students	74,900	5	36	A 0.43[4]/ A 0.14
Nursing students	245,000	5	36	A 0.43[4]/ A 0.14
Dental students	21,500	5	36	A 0.43[4]/ A 0.14
Funeral service workers	55,000	16	50	A 1.70 A 1.37
New mobile home[5]/ residents	4,200,000	112	52	A 0.25[6]/ A 0.25
Conventional home residents (UFFI)	1,750,000	112	52	A 0.073 A 0.073
Conventional home residents	>100,000,000	112	50	0.030[7]/

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Exposed Population	Number Persons Exposed	Exposure Duration (Hrs./Wk.)	(Wks/Yr)	Exposure Level Personal / Area (ppm)
Urban ambient	162,000,000	168	52	0.005
Rural ambient	58,000,000	168	52	0.0004

FOOTNOTES AND CODES

1/ A = Exposure levels based solely on monitoring data obtained at U.S. sites.

B = Exposure levels based solely or partly on foreign studies.

C = Exposure levels based solely on engineering or other estimates.

Unless specified all mean exposures levels are from a support document entitled Exposure Assessment for Formaldehyde (Versar, Inc., July 19, 1982).

2/ Exposure data for this entry is based on monitoring data submitted by the National Particleboard Association (see comment C-126).

3/ Due to adverse legislation and publicity this entry may be no longer accurate.

4/ Exposure data for this entry is based on monitoring data submitted by CPSC (see comment C-133).

5/ Mobile homes added to housing stock since 1976.

6/ Exposure data for this entry is based on data submitted by CPSC (see comment C-133).

7/ Exposure data for this entry is based on data compiled by EPA (see support documents for this exposure assessment).

As Table 1 shows, most exposures are below 0.5 ppm. For occupational groups, about one-fourth of the exposures are between 0.5 ppm and 1 ppm. Students and teachers are exposed to low levels for short durations from the use of preserved biological specimens, generally less than 0.5 ppm. This level can be reduced in the future as more schools purchase specimens that have been washed free of formaldehyde and then shipped in a non-formaldehyde-based medium (ethylene glycol). Based on available monitoring data, use of specimens processed in this manner can significantly reduce formaldehyde exposures to students and teachers. The proportion of specimens packed in glycol solutions has been growing since the early 1970's and will likely continue to grow in the future. With the exception of a few small firms, most firms offer routinely (or on request) specimens washed and packed in glycols (Ref. 12).

Also, many industrial users of formaldehyde and formaldehyde resins are attempting to reduce formaldehyde levels by changing resin formulations to decrease the amount of excess formaldehyde. This is especially true for particleboard and other "formed" wood products. Textile producers and manufacturers of products for the textile industry are attempting to reduce formaldehyde levels through processing techniques, fiber blend changes, and new resin products.

The apparent trend is for efforts by industry to reduce formaldehyde levels in their products through relatively inexpensive methods. Such action may lead to significant reductions in formaldehyde levels. However, these mitigations of exposure are difficult to quantify at this time, except for students and teachers were formaldehyde monitoring data show the difference between old and new methods of processing biological specimens.

Because of limitations in the monitoring data, two fairly typical assumptions for exposure assessments were made in assembling Table 1. First, since specific monitoring data for all types of potentially exposed worker classifications or operational settings within an industry were generally not available, all workers in a given industry were assumed to be exposed to the exposure levels reported in Table 1. All worker exposure, however, is not in fact identical; worker exposure can vary because of the physical characteristics of the work site and the employee's work station for example. However, in the absence of data EPA must make reasonable assumptions regarding exposure levels to protect public health. Workers were assumed to be exposed 5 days per week for 40 years. General population exposures were assumed to be for 70 years. Manufactured home residents were assumed to be exposed 112 hours per week for 10 years (see Quantitative Risk Assessment on Formaldehyde in the record of this decision).

Second, the reported exposure levels are assumed to be representative of the actual exposure levels for a given population. The limitation that this assumption presents is that the estimated exposure levels for some populations may differ, in some cases widely, from the actual situation. This is especially true for those populations for which little or no monitoring data are available and also for those populations for which the monitoring data were collected as a result of complaint investigations.

Despite these limitations, however, the monitoring data are fairly extensive and usually contain at least two studies for each exposure setting where significant formaldehyde exposure levels can reasonably be expected. These data, therefore, can be considered as an example of the exposure levels experienced by the identified populations. In addition, confidence in the data concerning the number of persons exposed to some level of formaldehyde and daily or weekly duration of exposure is high because the data are based on Census of Manufactures data and other Federal labor statistics. For a section 4(f) decision, the data are adequate for determining whether "there may be a reasonable basis to conclude" that there is a "significant risk * * *."

Finally, the limited monitoring data submitted by the public in response to the notice published in the **Federal Register** of November 18, 1983 are in good agreement with the corresponding exposure level estimates contained in EPA's exposure assessment (Ref. 13). Some of these data were used in Table 1 to fill data gaps as noted in the table.

C. *Significant Risk of Serious or Widespread Harm*

In Units V.A and V.B, EPA has explained its view of the evidence on the toxicity of formaldehyde and the available exposure information. These are the elements necessary to make the decision whether section 4(f) applies.

A chemical may not be subject to section 4(f), however, until EPA decides that it may present a "significant risk of serious or widespread harm." Thus, the mere determination that a chemical is a potential carcinogen in humans and that substantial numbers of persons may be exposed to it, does not trigger section 4(f). Rather, section 4(f) is triggered only after EPA determines the magnitude of the risk based upon consideration of the estimated individual risks and the number of persons exposed to those risks at given levels over given periods of time. These analyses are explained below.

1. *Calculation of risk.* The determination of individual risk can be made through the use of epidemiologic or animal studies. Epidemiologic data will show human effects at dose levels generally experienced by humans. Epidemiologic studies suitable for risk extrapolations are rarely available, however, and are not available in the case of formaldehyde. Thus human cancer risk from formaldehyde must be estimated through use of animal studies. This necessitates extrapolation from high to low doses because, typically, test animals are exposed to concentrations much higher than those expected to be experienced by humans. These extrapolations are carried out by fitting mathematical models to the observed animal data.

a. *Dosage data used in models.* Of the animal studies showing a statistically significant increase in malignancies (Refs. 1 and 3), the CIIT rat study was selected for the application of models because it was a well conducted multi-dose study that showed a dose-response relationship suitable for extrapolating to human risk at expected human doses.

A number of adjustments to the CIIT and the human exposure data were necessary before the models could be run. First, the number of rats at risk in the CIIT study had to be determined. An animal was considered at risk if it was sacrificed or died after the first squamous cell carcinoma was observed. All rats were assumed to have a lifetime of 24 months, even though some rats were permitted to live beyond 24 months. The first occurrence of squamous cell carcinoma was at 11 months. Thus, rats sacrificed at six months or those dying prior to 11 months were not considered to be at risk. Rats sacrificed at 12 and 18 months were considered to be at risk for the equivalent of one-half or three-quarters of their lifetime, respectively. Because the 20 rats sacrificed at 12 months were only at risk for one-half of their lifetimes, these rats collectively contributed 10 rat lifetimes to the study. Similarly, the 40 rats sacrificed at 18 months were at risk for three-fourths of their lifetimes and contributed 30 rat lifetimes to the study. This, in effect, reduces the total number of rats at risk during the study and was done to aid in

the statistical analysis of the study according to standard statistical practice. Table 2 gives the experimental doses, the number of rats at risk for each exposure group, and the incidence of squamous cell carcinoma for each exposure group.

TABLE 2.—INCIDENCE OF SQUAMOUS CELL CARCINOMA OF THE NASAL TURBINATES IN FISCHER 344 RATS FROM THE CIIT CHRONIC INHALATION STUDY ON FORMALDEHYDE

Target experimental dose (ppm)	Actual experimental dose (ppm)	Number of animals at risk	Number of rats with squamous cell carcinomas	Proportion responding
0	0	199	0	0.0
2	2	200	0	0.0
6	5.6	200	2	0.01
15	14.3	199	103	0.518

Note.—An animal is considered at risk if it was sacrificed or died after the first squamous cell carcinoma was observed. Also the number of rats at risk were adjusted to account for interim sacrifices.

Second, an average daily level of formaldehyde exposure per week over the course of the CIIT study was determined. Rats were exposed for 6 hours per day, 5 days per week. Averaged daily exposure at an exposure of 5.6 ppm is:

$$5.6\ \text{ppm} \times \frac{6\ \text{hours}}{24\ \text{hours/day}} \times \frac{5\ \text{days}}{7\ \text{days/week}} = 1.0\ \text{ppm}.$$

Thus, the average weekly experimental dose is 1.0 ppm for the exposure level of 5.6 ppm, 0.357 ppm for the 2.0 ppm exposure level and 2.55 ppm for the 14.3 ppm exposure level. These average doses were used as the administered dose in calculations of human risk.

Third, in order to calculate human risk, the exposure levels were standardized to account for the differences in exposure duration among the exposed populations. In addition, as the animal study upon which human risk estimates are based is a lifetime study, lifetime human exposures are necessary. To do this, lifetime average daily doses were estimated. In such a scheme, a person exposed to formaldehyde for 40 hours per week for 1 year has the same lifetime average daily dose as a person exposed at the same concentration for 10 hours per week for 4 years. Averages were calculated for each exposure category, taking into account the exposure levels and exposure duration. The following assumptions were also made concerning inhalation exposure to formaldehyde: humans live for 70 years and the same percentage of formaldehyde inhaled is absorbed by both rats and humans. The calculated doses were then used as the human exposures to estimate human risk. The number of hours per day, weeks per year, and years of exposure for each exposure group can be found in the Quantitative Risk Assessment support document for this action.

b. *Models used.* The Quantitative Risk Assessment support document contains results of applying several models. The results of two models are presented in Table 3. The Weibull and the 3-stage multistage model results are presented because they represent two basic kinds of models that are commonly used and rest on well-established principles (see support document). Also, in this case, these were the two models which were most conservative—they are unlikely to underestimate risks. This conservative approach is appropriate in estimating risk for section 4(f) decision. The table presents both the extrapolated estimates of risk and the associated figures for the upper 95 percent confidence limit. For example, in line one of the table the estimate of risk by the multistage model for persons exposed during manufacture of formaldehyde is 8.8×10^{-6}. The associated upper 95 percent confidence limit figure is 4×10^{-4}. The upper 95 percent confidence limit is a measure of the potential error in the extrapolated estimate and tells us that the estimate is 8.8×10^{-6} and we can have 95 percent confidence that the actual risk does not exceed 4×10^{-4}. The upper 95 percent confidence limit of the multistage model is called the "linearized" multistage model. EPA has placed primary reliance on this "linearized" multistage in this decision and in a previous section 4(f) decisions because it is not only based on a sound representation of the current understanding of the mechanism of carcinogenesis, but it is also protective of public health. The two models, Weibull and multistage, do not differ markedly in their results (at the upper 95 percent confidence level) in this case.

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TABLE 3—INDIVIDUAL LIFETIME RISKS AND LIFETIME ADDITIONAL CANCERS

TABLE 3--INDIVIDUAL LIFETIME RISKS AND LIFETIME ADDITIONAL OCCURRENCES PER POPULATION

Exposed Population	Number Persons Exposed	Additive Weibull	Weibull Upper 95	Multistage (3-Stage)	Multistage Upper 95
Manufacturers of CH_2O	1,400	1.58×10^{-5} a/<1	1.63×10^{-4} <1	8.8×10^{-6} <1	4.0×10^{-4} <1
Manufacturers of resins (U-F, P-F, M-F, acetal)	6,025	8.91×10^{-5} <1	7.02×10^{-4} 4.3	2.81×10^{-4} 1.7	1.53×10^{-3} 9.2
Manufacturers of hardwood plywood	6,700	2.70×10^{-5} <1	2.64×10^{-4} 1.8	2.99×10^{-5} <1	6.28×10^{-4} 4.2
Manufacturers of particleboard	4,000	9.64×10^{-6} <1	1.03×10^{-4} <1	2.62×10^{-6} <1	2.08×10^{-4} <1
Manufacturers of wood furniture	59,000	2.11×10^{-6}- 6.57×10^{-5} <1-4	2.40×10^{-5}- 5.53×10^{-4} 1.8-33	4.10×10^{-6}- 1.68×10^{-4} <1-10	6.66×10^{-5}- 1.22×10^{-3} 4.1-72
Manufacturers of mobile homes and related structures	31,500	1.26×10^{-5} <1	1.33×10^{-4} 4.4	5.12×10^{-6} <1	3.38×10^{-4} 10.7
Manufacturers of U-F foam chemicals	<50	1.58×10^{-5} <1	1.63×10^{-4} <1	8.8×10^{-6} <1	4.08×10^{-4} <1
Installers of U-F foam insulation	<1,000	1.58×10^{-5} <1	1.63×10^{-4} <1	8.8×10^{-6} <1	4.08×10^{-4} <1

Exposed Population	Number Persons Exposed	Additive Weibull	Weibull Upper 95	Multistage (3-Stage)	Multistage Upper 95
Manufacturers of metal molds and castings	60,000	9.64×10^{-6} <1	1.03×10^{-4} 7.8	2.62×10^{-6} <1	2.68×10^{-4} 16.2
Manufacturers of plastic products	16,575	6.91×10^{-6} <1	7.59×10^{-5} 1.3	1.10×10^{-6} <1	2.0×10^{-4} 3.3
Manufacturers of paper & paperboard	>9,730	4.41×10^{-6} <1	4.93×10^{-5} <1	3.28×10^{-7} <1	1.33×10^{-4} 1.4
Manufacturers of textiles	17,800	2.70×10^{-5} <1	2.64×10^{-4} 4.8	2.99×10^{-5} <1	6.28×10^{-4} 11.2
Manufacturers of apparel	777,000	2.30×10^{-5} 18	2.29×10^{-4} 179	2.10×10^{-5} 16	5.53×10^{-4} 435
Wholesale trade of apparel	66,400	1.26×10^{-5} <1	1.33×10^{-4} 9.3	5.12×10^{-6} <1	3.38×10^{-4} 22.6
Manufacturers of building paper & coatings	3,800	1.26×10^{-5} <1	1.33×10^{-4} <1	5.12×10^{-6} 1.4	3.38×10^{-4}
Manufacturers of abrasive products	7,000	5.26×10^{-5} <1	4.62×10^{-4} 3.3	1.12×10^{-4} <1	1.04×10^{-3} 7.4
Manufacturers of asbestos products	3,500	5.89×10^{-5} <1	5.07×10^{-4} 1.8	1.38×10^{-4} <1	1.13×10^{-3} 4

Exposed Population	Number Persons Exposed	Additive Weibull	Weibull Upper 95	Multistage (3-Stage)	Multistage Upper 95
Manufacturers of U-F concentrates	40	1.58×10^{-5} <1	1.63×10^{-4} <1	8.8×10^{-6} <1	4.08×10^{-4} <1
Manufacturers of nitrogenous fertilizers	1,600-2,850	4.12×10^{-5} <1	3.78×10^{-4} 1.1	7.08×10^{-5} <1	8.68×10^{-4} 2.5
Manufacturers of large volume CH_2O derivatives	>210	1.58×10^{-5} <1	1.63×10^{-4} <1	8.8×10^{-6} <1	4.08×10^{-4} <1
High school teacher	38,600	1.03×10^{-6} <1	1.19×10^{-5} 1.2	5.13×10^{-9} <1	3.33×10^{-5} 2.7
High school students	3,834,000	1.01×10^{-8} <1	1.17×10^{-7} <1	5.12×10^{-15} <1	3.33×10^{-7} 1
College/university teachers	108,600	2.11×10^{-6} <1	2.4×10^{-5} 3	4.10×10^{-8} <1	6.66×10^{-5} 7.6
College students	2,903,000	1.01×10^{-7} <1	1.17×10^{-6} 3	5.12×10^{-12} <1	3.33×10^{-6} 9.6
Medical students	74,900	1.01×10^{-7} <1	1.17×10^{-6} <1	5.12×10^{-12} <1	3.33×10^{-6} <1
Dental students	21,500	1.01×10^{-7} <1	1.17×10^{-6} <1	5.12×10^{-12} <1	3.33×10^{-6} <1

Exposed Population	Number Persons Exposed	Additive Weibull	Weibull Upper 95	Multistage (3-Stage)	Multistage Upper 95
Nursing students	245,000	1.01×10^{-7} <1	1.17×10^{-6} <1	5.12×10^{-12} <1	3.33×10^{-6} <1
Funeral service workers	55,000	2.70×10^{-5} 1.7	2.64×10^{-4} 14.9	2.99×10^{-5} 1.7	6.29×10^{-4} 34.7
New mobile home residents	4,200,000	4.41×10^{-6} 18	4.93×10^{-5} 210	3.28×10^{-7} 1	1.33×10^{-4} 588
Conventional home residents (UFFI)	1,750,000	1.46×10^{-6} 2	1.67×10^{-5} 35	1.41×10^{-8} <1	4.66×10^{-5} 88
Conventional home residents (non-UFFI)	>100,000,000	3.70×10^{-6} >370	4.16×10^{-5} >4,160	2.02×10^{-7} >20	1.13×10^{-4} >11,300
Rural ambient air	58,000,000	8.10×10^{-8} 4	9.38×10^{-7} 41	2.63×10^{-12} <1	2.66×10^{-6} 140
Urban ambient air	162,000,000	1.03×10^{-6} 162	1.19×10^{-5} 1,944	5.13×10^{-9} 1	3.33×10^{-5} 5,346

a/ Additional occurrences per exposed populations, e.g., for manufacturers of CH_2O, 1,400 workers are exposed at a risk of 4.0×10^{-4} (Multistage Upper 95) which may result in the appearance of less than one excess tumor per the lifetime of that group.

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2. *EPA's section 4(f) determination.* The mathematical models were used to estimate the risks associated with the exposures shown in Table 1. The exposure categories identify populations. The basic inquiries under section 4(f) are: Is there any population at very high risk (significant risk of serious harm) or a large population at lower, but still considerable risk (significant risk of widespread harm)? The exposure categories allow us to ask these questions in a meaningful way because they show the populations associated with particular exposure conditions. For instance, each occupational category identifies a population of workers associated with a particular kind of production for which data are available to estimate exposure levels. Each category was constructed to be as large as possible and still be a meaningful association of persons with similar activities and exposure levels. Thus, EPA has tailored its use of section 4(f) and has designated only those specific formaldehyde uses which result in significant risks of widespread harm to specifically-designated populations.

Table 3 shows that the populations exposed to formaldehyde are at a wide range of risks, from approximately 1 in 1,000 to 1 in 10 million (multistage upper 95). The table also shows the excess tumors expected in the lifetime of each population. For many of the populations, less than one excess tumor is estimated for the lifetime of the entire population; there is very little risk to be addressed in these populations. Estimates for the remainder, by the linearized multistage model (multistage upper 95), range from 1 to over 11,000.

None of the risks for the populations in Table 3 meet EPA's criterion for "significant risk of serious harm; there is no population at sufficiently high risk. EPA's two previous section 4(f) determinations under the serious harm criterion involved populations in which available exposure data indicated that persons were exposed at levels associated with individual lifetime risks of one per 100 or more in a group of several thousand persons or at levels comparable to those producing a significant incidence of cancer in laboratory animals (see 48 FR 19078 and 49 FR 845). There is no population in Table 3 which is at this high an individual risk level.

The second inquiry is whether there is a large population at a high, although less serious, risk—significant risk of widespread harm. The populations in Table 3 for which more than one excess tumor is estimated in the lifetime of the population are large populations. Table 3 shows that, of these, the populations estimated to have by far the greatest lifetime numbers of excess tumors are occupants of new mobile homes, conventional home residents (non-UFFI), apparel workers, and rural and urban populations exposed via ambient air.

EPA has concluded that the risks to conventional and mobile home residents and apparel workers should receive priority attention as significant risk of widespread harm.

EPA does not believe the exposure or risk estimates for ambient exposure situations are sufficiently reliable to indicate that there may be a reasonable basis to conclude that a section 4(f) priority risk is presented from ambient exposure. The contribution to human risk from ambient levels of formaldehyde is difficult to quantify for a number of reasons. First, ambient levels of formaldehyde are determined by three sources: (1) Production of formaldehyde from photochemical conversion of hydrocarbons emitted from biota and natural combustion sources; (2) combustion of fossil fuels and photochemical conversion of hydrocarbons released from anthropogenic sources; and (3) the release of formaldehyde from the direct production and use of formaldehyde and formaldehyde-based products. Second, ambient levels are influenced by seasonal and climatic condition which contribute to local and regional variations. Third, measured levels have been reported to differ significantly from year to year and from month to month. However, the potential risks from formaldehyde in ambient air warrant investigation and consequently EPA's Air and Radiation Office will accelerate its assessment of formaldehyde.

The populations triggering section 4(f) represent a significant proportion of all formaldehyde exposures. Apparel workers represent nearly 70 percent of non-teaching occupational exposures, and home residents exposed to formaldehyde from off-gassing construction materials number in the tens of millions. EPA's decision gives priority to the most important of the risks identified. This is consistent with the purpose of section 4(f) which is to give priority to some risks over others, even when—as in this case—the other risk are due to the same chemical. The smaller population risks in other categories may require attention, but not the priority of section 4(f).

More detailed explanations of those exposures that trigger section 4(f) appear below.

a. *Apparel workers.* EPA has estimated that 777,000 persons are exposed to formaldehyde during apparel manufacture. Available data indicate that 8-hour average mean exposure levels are less than 1 ppm, with levels measured in the work area averaging about 0.23 ppm and levels measured using personal monitors of about 0.64 ppm. A recent industrial hygiene survey of an apparel plant conducted by NIOSH supports the area levels (Ref. 14). One important finding of the study was the fact that formaldehyde exposures were ubiquitous in the plant and were not limited to a small category of workers.

The source of the formaldehyde in apparel plants is from the formaldehyde-based resins that are used to treat textiles to impart stain and crease resistance (permanent press garments). All resin systems used in the United States to treat textiles are formaldehyde-based and release formaldehyde during textile processing and apparel manufacture. Consequently, every worker handling treated textile is potentially exposed to formaldehyde.

b. *Home residents.* EPA is concerned that significant numbers of persons are exposed to formaldehyde in their homes, principally from building materials that contain formaldehyde-based resins, such as particleboard and plywood. The problem is particularly troublesome in manufactured homes, where large amounts of particleboard and hardwood plywood are used. Also, reduced ventilation in newer homes, especially manufactured homes, resulting from measures instituted to reduce heating costs by reducing outside/inside air exchanges, results in elevated formaldehyde levels. Increasing numbers of persons have complained about acute reactions to formaldehyde in their homes, especially manufactured homes. Consequently, HUD has recently proposed changes in HUD's manufactured housing regulations that would limit indoor ambient levels to 0.4 ppm of formaldehyde. The limit would be achieved by setting product emission standards for particleboard (0.3 ppm) and plywood (0.2 ppm) as published in the **Federal Register** of August 16, 1983 (see 48 FR 37136). HUD believes that if the product standards are met, ambient levels will not exceed 0.4 ppm under certain temperature and humidity conditions. The proposed HUD regulation, however, was designed to reduce acute reactions to formaldehyde and is not based on formaldehyde's potential carcinogenicity in humans.

i. *Conventional homes.* The information available to EPA indicates

that long-term average formaldehyde levels in conventional homes range from about 0.025 to 0.045 ppm. Much of this information was gathered in homes that were used as controls in studies of UFFI homes. Recent work carried out by Oak Ridge National Laboratory for the CPSC has confirmed comparable levels in conventional homes (Ref. 15). Based on these data, EPA estimates an average formaldehyde level of around 0.030 ppm in conventional homes. The sources of formaldehyde are not just from the original construction materials, but from materials used to repair or modernize homes. Other contributors to formaldehyde levels in homes are smoking, cooking, and releases from home furnishings. Data from newer homes indicate much higher levels, sometimes exceeding 1 ppm. However, these levels decline over time. The increasing use of building products containing formaldehyde-based resins (particleboard production has increased nearly four-fold since 1966) and energy-saving construction techniques have led to the potential for higher indoor formaldehyde levels.

ii. *Manufactured homes.* EPA believes that the HUD estimate of an average ambient formaldehyde level of 0.25 ppm for manufactured homes is reasonable, because it was based on a random survey of over 200 homes (125 were occupied), and has used it in the quantitative risk assessment. Another study has reported average levels of 0.54 ppm for manufactured homes less than three years old and 0.19 ppm for homes older than three years (Ref. 16). The Exposure Panel of the Workshop reported studies that showed average ambient levels of 0.38 ppm for manufactured homes not subject to complaints about formaldehyde odor by residents, and averages of 0.38 ppm to 0.90 ppm for complaint homes. Thus, an unrealistic worst case exposure estimate was not used to estimate human risk. Also, only 10 years of exposure were assumed for manufactured homes.

The major formaldehyde-releasing building materials in manufactured homes are apparently hardwood plywood and particleboard. A typical manufactured home contains approximately 800 square meters of particleboard in subflooring and cabinets and in some cases roofing. Most interior walls of manufactured homes are covered by hardwood plywood paneling. All of these materials can release formaldehyde when they are manufactured with urea-formaldehyde resins. Although a large portion of the free formaldehyde in the resin is chemically bound during the curing of the building material during manufacture, a small residue remains in the product in a free or loosely bound state. The release of this free formaldehyde results in relatively high emission levels during the first few years. The emission levels then decrease, but because urea-formaldehyde resins are subject to hydrolytic degradation by reacting with moisture in the air, formaldehyde may continue to be released at low levels from these products for long periods of time. Increased emissions result with increases in temperature and humidity levels.

In summary, the reasons for EPA's decision are as follows:

First, after reviewing the data relevant to formaldehyde's carcinogenicity, EPA has concluded that under EPA's Interim Cancer Guidelines formaldehyde should be considerd a potential carcinogen in humans when inhaled.

Second, while the currently available body of epidemiologic data do not show that formaldehyde is a carcinogen in humans neither do the studies prove the opposite. EPA's conclusion is that the epidemiologic studies now available neither prove nor disprove formaldehyde's carcinogenic potential in humans.

Third, the risk predicted by the "linearized" multistage model indicate individual risks to apparel workers (5.53×10^{-4}) and conventional and manufactured home residents (1.13×10^{-4} and $1.33 - 10^{-4}$, respectively). Both exposure categories have large populations; 777,000 apparel workers, approximately 4,000,000 manufactured home residents, and over 100,000,000 conventional home residents. When the individual risks are considered with the widespread exposure to these risks, a large number of cancers can be expected in the lifetimes of the populations exposed. Thus, EPA finds that there is potential for significant risk of widespread harm from these formaldehyde exposures.

3. *Response to comments.* A number of commenters have raised questions about the statistical methods employed to estimate human carcinogenic risk from animal data. Some commenters submitted their own risk assessments that show a lower risk from formaldehyde than EPA's predictions. In addition, several arguments against the use of models were raised, including: the models have no biological basis because the mechanism of tumorigenic action is unknown and thus, they have no value in predicting risk, the risks derived from them have not been empirically verified, the models used by Government agencies are based on very conservative assumptions thus leading to unnecessarily burdensome regulation, and the models are based solely on animal data, showing no human connection.

As the above analysis shows, EPA's estimates of human risk from cancer due to formaldehyde are reasonable and appropriate for use in deciding whether formaldehyde triggers section 4(f). Accordingly, EPA will continue to rely on these estimates, although other estimates, that may lead to decisions less protective of public health, may also be reasonable. Further, EPA believes that the use of models to predict human risk is justified for a number of reasons discussed in the remainder of this unit.

Usually, the only data available on a chemical that can be used to estimate human risk are animal bioassay data. Because most animal bioassays employ experimental doses greater than expected in typical human exposures, it is necessary to employ some type of mathematical model, which relates dose to response, to estimate human risk at lower doses. These models can be based solely on mathematical constructs or on plausible biological arguments. The mathematical models normally used for describing dose-response relationship fall into two broad categories; tolerance distribution models and stochastic or mechanistic models.

Tolerance distribution models are based on the idea that each individual in a population has it own tolerance to the test agent. If a dose does not exceed the tolerance of an individual, that individual will show no response. Conversely, if the dose exceeds the tolerance, then a response will be observed. Tolerance models differ from each other in the particular mathematical expression used to describe the distribution of tolerances in the population. The distributions are generally chosen because of their descriptive power, rather than on the basis of biological processes.

Stochastic, or mechanistic, models are derived from plausible biological arguments of carcinogenesis such as the one-hit, multistage, and multihit models. Sometimes the mechanistic argument leads to tolerance distribution. Thus, the distinction between the two types of model is not always very obvious.

In an experiment to determine a dose-response curve, some animals may show a response even though they do not receive a dose of the chemical. This spontaneous background response may be a result of many factors, including the presence of another response-causing

chemical, the genetic makeup of the strain of animal, or a background level of the toxic substance present in the environment. The method of incorporating the spontaneous background response into the model effects the shape of the dose-response curve at low doses, and hence affects estimates of the risk.

If the background response is assumed to be totally independent of the response to the experimental dose, then the shape of the dose-response curve remains qualitatively the same as when no background response is included. However, if the background response is assumed to be additive in the sense that the effective dose is construed to be the background dose plus the experimental dose, then in many cases the dose-response curve becomes linear at low doses, and would reflect higher risks than a non-linear curve. This is true for most of the commonly used models, including the probit, logit, Weibull, one-hit, gammamultihit, and multistage models. In this case, although no squamous cell carcinomas were observed in control animals, the models employed by EPA assume an additive background response and estimate higher risks than models assuming an independent response.

It is often difficult to decide from experimental data whether background responses are independent, additive, or both. Therefore, it has been suggested that models incorporating additive background be used unless there is good evidence to assume otherwise (Ref. 17). Consequently, lacking data to the contrary and believing that formaldehyde can interact with other carcinogenic agents thus producing a dose-response relationship that is linear at low doses (see below), models incorporating additive background were used by EPA for the formaldehyde risk assessment.

Because our understanding of the carcinogenic process is incomplete, it is difficult to determine the true nature of the dose-response relationship at low levels of exposure. However, a number of arguments have been put forth that suggest that the dose-response relationship should be essentially linear at low doses and support the use of the "linearized" multistage model. The biological basis for low dose linearity emerged in the 1950's in connection with investigation of the carcinogenic risk from ionizing radiation. This work was extended to chemical carcinogenesis in the 1970's. As the Risk Estimation Panel of the Workshop stated, other arguments have been advanced for low dose linearity:

> Ehrenberg et al. (1983) have pointed out that the kinetics of the various chemical processes involved in the uptake and metabolism of chemicals, and their reactions with target molecules, become first order at low concentrations, leading to low dose linearity. It has been suggested that when the action of a given carcinogen adds to those of other causes of cancer in a given target tissue, the incremental effect of small delivered doses of the given carcinogen is virtually linear regardless of the observed shape of the dose-response relationship at the tested doses (Crump et al., 1976; Guess et al., 1977; Peto, 1978; and Hoel, 1980). The rationale is that the carcinogen is augmenting some background component in causing a carcinogenic event. Formaldehyde shares with other chemical carcinogens the properties of genotoxicity and an ability to react directly with DNA (as concluded by the panels on Structure Activity/Biochemistry/Metabolism and Carcinogenicity/Histopathology/Genotoxicity). Further, the latter panel found that formaldehyde can transform, as well as mutate, various cultured cell lines and enhance the transformation of Syrian hamster embryo cells harboring adenovirus. Research at the CIIT has shown additionally, that formaldehyde can initiate and promote the actions of other promoters and initiators in *in vitro* mammalian cultured cell transformation assays (Frazell et al., 1983; Ragan et al., 1981). These data suggest that formaldehyde can interact with a wide range of carcinogenic agents or processess.

Consequently, EPA has not considered in section 4(f) determination risk estimates from models that are highly nonlinear at low doses.

As previously stated, EPA (supported by the Risk Estimation Panel) has no current basis to assume that a threshold exists for formaldehyde's carcinogenic effects, and therefore no adjustments to the models were made concerning the amount of formaldehyde reaching target cells, because EPA believes that available data do not demonstrate such a reduction. In other words, the models assume that the same percentage of the formaldehyde contained in inhaled air reaches the target tissues of rats and humans at all concentrations considered. However, EPA is not ruling out the possibility that a non-linear relationship between air concentration and the effective dose to target tissues may exist and may be demonstrated through further experimentation.

The Agency recognizes that there is uncertainty in quantitative carcinogenic risk assessments, but it believes models do provide a means of considering the possible risks presented by chemicals and can be useful tools, particularly in section 4(f) decisions. Also, it is not true that models have no biological basis. The problem arises when the carcinogenic process of a particular chemical is unknown and the Agency must assume, lacking better data, that the process operates by a mechanism postulated by a particular model. As a matter of policy, agencies generally choose the more conservative models, and rely on the upper 95 percent confidence limit since it is better to err on the side of too much protection than not enough.

VI. Regulatory investigation

This **Federal Register** notice is also an Advance Notice of Proposed Rulemaking (ANPR), in which EPA is announcing initiation of a full regulatory investigation concerning formaldehyde exposure to workers in apparel manufacture and to residents of manufactured and conventionally constructed housing. This ANPR fulfills the statutory requirement that, within 180 days of obtaining information that warrants designating a substance under 4(f), EPA shall either initiate appropriate action to reduce the risk from that substance or issue a finding in the **Federal Register** that the risk giving rise to the 4(f) designation does not constitute an unreasonable risk

EPA cannot, at this time say that the designated formaldehyde exposures do not present an unreasonable risk. In order to make such a determination EPA would have to find that the economic impacts of regulation outweigh the risks that may be reduced. Preliminary information indicates, however, that there may be reasonable ways to reduce the risks from formaldehyde.

Accordingly, EPA is announcing the initiation of appropriate action in this ANPR. Issuing the 4(f) designation simultaneously with the decision to initiate appropriate action is at variance with EPA's normal practice in 4(f) actions, but is justified in this situation. In past section 4(f) actions EPA followed a two-stage process. In the first stage, EPA decided that section 4(f) was applicable to a chemical and announced that decision in a **Federal Register** notice which also solicited public comment on how EPA should proceed to the second 4(f) decision whether to initiate appropriate action or declare that the chemical does not present an unreasonable risk. *See* 48 FR 19078 (1983) (decision on 4,4'-Methylenedianiline (MDA)); 49 FR 845 (1984) (decision on 1,3-Butadiene). After reviewing the public comments, EPA made the second 4(f) decision. *See* 48 FR 42898 (1983) (MDA); 49 FR 20524 (1948) (1,3-Butadiene). In the case of formaldehyde, however, EPA is making the second 4(f) decision simultaneously with the 4(f) designation because the Agency has been able to conduct the type of review it typically would

conduct after obtaining the public comments in the normal course of the 4(f) two-stage process. Extensive public comment has already been obtained on formaldehyde. Moreover, since the issue of the potential carcinogenicity of the chemical was first raised at EPA several years ago, the Agency has had the advantage of extensive public discussion of scientific and regulatory issues, as well as the views of various Federal agencies which have considered the data.

As discussed above, the decision to designate a chemical for priority review under section 4(f) is based on examination of toxicity and exposure. A subsequent regulatory decision under TSCA must also consider the benefits of the substance and the economic consequences of regulation. To accomplish this end, EPA will conduct a regulatory investigation to determine whether the designated exposures to formaldehyde present an unreasonable risk under TSCA. Thus, EPA must obtain more information than it now possesses so that it can understand the cost and efficacy of available means of reducing exposures resulting from the designated formaldehyde uses.

The decision announced by this ANPR does not presuppose that a regulation will be issued, but is designed to ensure that necessary action to reduce risks from formaldehyde will be taken as expeditiously as practicable. If these uses are found to constitute an unreasonable risk, EPA will follow one of two courses of action. EPA will either promulgate regulations under section 6 of TSCA or, if it determines that another Federal agency may be able to reduce the risk adequately, EPA will submit a report under section 9 of TSCA requiring the other Agency to evaluate the risk and inform EPA of any regulatory plans to reduce the risk. EPA will not take either of these actions if more detailed investigation shows that the designated formaldehyde risks are not unreasonable.

The remainder of this notice explains the regulatory authority available to EPA under section 6 of TSCA, the further investigations EPA will conduct to support a section 6 action, and the possible control options that have been identified by EPA. It then describes the provisions of section 9 of TSCA for requiring other Federal agencies to evaluate a toxic substance control problem and to inform EPA of the other agency's regulatory plans regarding such problem and the actions currently being taken by other Federal agencies to evaluate and control risks associated with exposure to formaldehyde. Finally, it solicits public comment on certain issues identified as pertinent to its future decisionmaking as to what regulatory action is appropriate.

A. *Section 6 authority*

Section 6 of TSCA provides EPA with a number of regulatory options. EPA may prohibit, or limit in quantity, the manufacture, processing, or distribution in commerce of a substance or mixture. EPA may impose similar restrictions on the manufacture, processing, or distribution in commerce of a substance or mixture for a particular use or for a particular use at concentrations above a specified level. EPA may require labels providing hazard warnings or giving instructions on use, distribution in commerce, or disposal. EPA may require manufacturers or processors to notify distributors, and others whose identities are reasonably ascertainable, of unreasonable risks and to replace or repurchase a substance or mixture posing such risks. In addition, EPA may otherwise regulate or prohibit commercial use of a substance or mixture. EPA may also prohibit or otherwise regulate the substance's disposal by manufacturers, processors, and others who use or dispose of a substance or mixture for commercial purposes. Finally, in order to assure compliance with any requirement described above, EPA may require manufacturers and processors to keep records of processes used, to conduct monitoring, or to conduct testing.

B. *Further Investigation*

As mentioned above, a determination of unreasonable risk under TSCA represents a balancing of the potential for reducing harm against the economic and social impacts of potential regulation. The potential economic impact is evaluated in terms of benefits provided to society by the chemical under consideration, taking into account the availability of substitutes and reasonably ascertainable economic consequences, including effects on the national economy, small business and technological innovation. The existence of potential harm does not in itself constitute unreasonable risk. If the economic or other adverse impacts of regulatory control outweigh the risk of harm, EPA would not find the risk unreasonable.

Below is a description of further investigation EPA will conduct to determine if formaldehyde poses an unreasonable risk.

1. *Health effects.* EPA's analysis of the carcinogenic potential of formaldehyde is described in detail above, in Unit V of this notice. EPA considers formaldehyde a potential human carcinogen and has made estimates of the human cancer risk that may result from exposure to formaldehyde. EPA will continue to monitor ongoing eqidemiologic or other scientific studies related to formaldehyde's carcinogenic potential and will evaluate comments received in response to this ANPR. EPA is itself conducting a case/control study of cancers of the sinus cavity, nasal cavity, oropharnyx, and nasopharnyx and their relationship to formaldehyde exposure. However, EPA's policy on carcinogenic risk assessment does not require positive epidemiologic evidence.

In addition to the carcinogenic potential of formaldehyde, the substance also produces irritation and allergic reactions. EPA has not examined these latter effects of formaldehyde in any detail, since the decision whether section 4(f) of TSCA applies to a substance is by statute based solely on carcinogenicity, mutagenicity, or teratogenicity. Formaldehyde vapors cause eye or throat irritation at levels as low as 0.1 ppm but more often at concentrations of 1 to 11 ppm. (Ref. 18). Formaldehyde can also produce allergic reactions. The Consensus Workshop on Formaldehyde concluded that it is well established that dermal contact with solutions containing formaldehyde can produce allergic dermal reactions. It concluded that while there is evidence suggesting that inhalation of formaldehyde vapors might produce an allergic reaction of the respiratory tract, the evidence is limited and is not conclusive.

EPA is aware that HUD and CPSC have considered these effects in making regulatory decisions and that prevention of these effects may be a significant contribution to the benefits of reducing some formaldehyde exposures. EPA will investigate the importance of noncarcinogenic effects to decisions regarding formaldehyde releases from pressed-wood products and textiles.

2. *Exposure.* EPA has preliminary information indicative of current exposure levels in the populations of concern. EPA needs to review newly available data on current exposures and will need to estimate the exposure levels that could result if possible control measures are required.

There are several recently conducted studies of formaldehyde exposures in garment manufacture and in housing that may be valuable to EPA. These include recent in-depth workplace monitoring of formaldehyde conducted by NIOSH at 3 U.S. shirt factories and a recent study of formaldehyde levels in

40 homes (including conventional homes) conducted for CPSC by the Oak Ridge National Laboratory.

3. Control options. EPA will analyze the cost and effectiveness of several options for reducing formaldehyde exposure for the two exposed populations of apparel workers and housing residents. EPA's intention is initially to focus the investigation on these populations. However, if the investigation makes it apparent that the most appropriate control measure is one that would also reduce the exposures of other populations, EPA would expand its investigation and consider in its analysis the benefits resulting from reducing the risk to these other populations as well.

C. *Potential Control Options*

EPA has preliminarily identified a number of technical control options for reducing residential exposure to formaldehyde from plywood and particleboard used in construction and for reducing the exposure of apparel workers to formaldehyde from treated textiles.

1. *Plywood and particleboard.* One way to reduce formaldehyde exposures from pressedwood products is to ban the use of certain urea-formaldehyde resins in plywood and particleboard used in residential construction. It appears to be feasible to substitute phenol-formaldehyde resins in these products. It may also be possible to develop urea-formaldehyde resins that emit less formaldehyde when used in plywood or particleboard.

There appear to be other ways to reduce the formaldehyde emissions from particleboard and plywood while still using the same or similar urea-formaldehyde resins. Three such options are: (1) Treating pressed-wood products with scavenging solutions (chemical solutions to reduce the amount of free formaldehyde in finished products), (2) aging pressed-wood products prior to distribution, and (3) coating or laminating the wood products with materials that act as vapor barriers.

2. *Garment manufacture.* There are a number of possible ways to reduce the exposure of garment workers to formaldehyde. One is to reduce the amount of formaldehyde emitted by the fabrics. The predominant formaldehyde-releasing textile treatment is dimethylol dihydroxyethylene urea (DMDHEU). A preliminary study, done for EPA in 1981, identified some substitutes that were then available (although these were more expensive than DMDHEU). It may also be possible to reduce formaldehyde emissions from textiles by washing or otherwise processing the textiles prior to their use in apparel manufacture. Another approach would be to require better ventilation in garment factories.

D. *Referral to Another Agency*

As mentioned earlier, if EPA finds that these uses of formaldehyde constitute an unreasonable risk under TSCA, EPA may either promulgate a regulation under section 6 of TSCA or, if appropriate, refer some, or all, aspect of regulation of such risks to other Federal agencies.

The statutory provisions for such a referral is in section 9 of TSCA. Under TSCA section 9, EPA may make such referral if it determines that there is an unreasonable risk and determines, in the Administrator's discretion, that the risk can be eliminated or adequately reduced under the authorities available to another agency. EPA may establish a date by which the other agency must reply with a finding regarding the risk and the agency's intention whether to initiate rulemaking. If the other agency finds that the risk is not unreasonable or if it initiates action to regulate, EPA may not regulate. If the other agency does neither of these, EPA may exercise its authority under section 6. As part of taking appropriate regulatory action on formaldehyde, EPA will determine whether referral to other Federal agencies is appropriate.

E. *Actions Being Taken by Other Agencies*

Several Federal agencies have conducted or initiated regulatory investigations into some aspect of formaldehyde exposure. EPA will coordinate with those agencies and, as explained above, EPA may eventually refer some, or all, aspects of the regulation of formaldehyde exposure to other Federal agencies.

In 1982, the CPSC banned the use of UFFI in residential and school construction. This ban was set aside by the Fifth Circuit of the U.S. Court of Appeals on April 7, 1983 because, in the opinion of the court, CPSC's rulemaking record did not contain sufficient evidence to estimate the risk of cancer resulting from UFFI.

CPSC recently initiated the creation of a Chronic Hazard Advisory Panel to advise CPSC on the risks of formaldehyde from urea-formaldehyde foam insulation and from other sources of consumer exposures. CPSC has been studying the emissions of pressed-wood products, has studied other possible sources of formaldehyde in conventional homes, and is studying dermal exposure from wearing garments made with fabrics which release formaldehyde. (This last exposure is of concern to CPSC because dermal contact with formaldehyde can cause allergic reactions. CPSC does not believe dermal contact with treated garments causes cancer.)

The Department of Housing and Urban Development has proposed standards for pressed-wood construction materials used in manufactured housing and is proceeding with the development of final standards. The proposed HUD standards are designed to reduce the acute effects of formaldehyde exposures in manufactured housing and do not consider whether further reductions would be justified because of the potential for carcinogenicity.

The Occupational Safety and Health Administration has not initiated any recent regulatory investigation on formaldehyde. In 1981, OSHA was petitioned to establish an emergency temporary standard reducing the allowable workplace exposure to formaldehyde. OSHA denied that petition in 1982 and that decision is currently under litigation.

F. *Relationship to Recent Test Rule Announcement*

In a separate action, signed May 11, 1984, EPA announced a tentative decision to initiate rulemaking to require toxicity testing of urea-formaldehyde resins (either the syrupy liquid oligomeric mixture or its dried or reconstituted equivalent).

This tentative decision is distinct from EPA's investigation of regulatory options to reduce exposure to formaldehyde. The decision to initiate rulemaking to test the UF resins is not based on the toxicity of formaldehyde. It is based on the potential toxicity of the monomeric and oligomeric reaction products of urea combined with formaldehyde. EPA cannot at this time conclude that the investigation of regulatory options to reduce formaldehyde exposures to apparel workers and housing residents will lead to reduction in the occupational exposures to the uncured UF resins which was the exposure of primary concern in initiating rulemaking to require toxicity testing.

G. *Request for Comments*

EPA solicits information and comments relevant to its further investigation for formaldehyde exposures to apparel workers and housing residents. Below is a summary of the principal areas in which EPA seeks information.

1. *Carcinogenicity of formaldehyde.* The issues involved in assessing the

potential carcinogenicity of formaldehyde have received extensive discussion. However, EPA welcomes comments on the approach the Agency has taken in making its risk assessment. It particularly welcomes comment on its evaluation of the epidemiologic data and on the appropriateness of different models for low-dose extrapolation.

2. *Irritation and allergic reactions.* The potential carcinogenicity of formaldehyde has been extensively evaluated. Because the requirements of section 4(f) focus only on carcinogenic, teratogenic, or mutagenic potential of substances, other effects (such as irritation and sensitization) have not been examined by EPA. However, mitigation of the carcinogenic risk of formaldehyde also has the potential to reduce the incidence of these other effects. The mitigation of such effects would be a health benefit of regulation. The Agency will consider taking these effects into account in determining unreasonable risk. Accordingly, EPA seeks comments as to the significance that should be attached to reports that formaldehyde causes irritation or sensitization following inhalation or topical exposure. What studies, existing or proposed, would be most important to resolve controversies concerning irritation and sensitization?

3. *Potential controls in apparel manufacturer.* EPA seeks information on feasible means of reducing exposure of apparel workers to formaldehyde. Regarding workplace controls, EPA seeks comments on the feasibility and cost of increases in ventilation and of changes in work practices or changes in equipment (such as pressing equipment) so that formaldehyde emissions to the work areas might be reduced.

With respect to reducing the rate of releases from the textiles used in apparel, EPA seeks information on the cost and feasibility of modifying and resins used to treat fabrics, pre-curing fabric prior to its use in apparel manufacture, or other changes in the treatment and processing of textiles.

With regard to substitute textile treatments, in addition to cost data, EPA would like information on the performance characteristics of alternative treatments and on the potential toxicity of probable substitute textile treatments.

4. *Potential controls on residential exposure.* EPA is aware that the plywood and particleboard industries have been able to make some reductions in the formaldehyde-release rates for their products. EPA seeks information on what, and how, reductions have already been made, on the potential for further reduction, and on the costs of such reductions.

EPA also seeks information on the effect on the construction industry of possible changes in the composition and price of particleboard and plywood. EPA would particularly like to know of any changes in construction practices that might add to the economic impact of changes in the wood products of concern.

EPA also seeks information on the cost and feasibility of substituting other building materials. It also seeks information on changes in construction practices that could reduce the concentration of formaldehyde in indoor air without changing the emission rates of the wood products (such as changes in building ventilation or the use of vapor barriers).

5. *Role of different agencies.* Finally, EPA welcomes comments on the degree to which these exposures could be reduced under other Federal laws. EPA would particularly like to know if any other Federal agency has sufficient authority to regulate formaldehyde release from construction materials use in conventionally constructed homes.

H. *Reports on Agency Progress*

This notice sets out the tasks which must be completed before regulatory decisions can be made. EPA will issue periodic reports, at least every six months, to assure that the public is informed of progress in EPA's investigation and in the completion of the remaining tasks. These reports will be published in the TSCA Chemicals-in-Progress Bulletin. EPA will report on completed analyses and near-term plans for subsequent action. This should assure the concerned public that EPA is proceeding in a timely fashion with its investigation and regulatory plans.

The TSCA Chemcials-in-Progress Bulletin is a newsletter published bi-monthly by EPA. Individuals wanting to receive copies should write to the TSCA Assistance Office (TAO), (TS–799), EPA, Washington, D.C. 20460.

VII. Confidential Business Information

Information submitted as comments to this notice may be claimed confidential by marking any part or all of that information as "CBI". However, health and safety studies cannot be held confidential except as allowed under section 14(b) of TSCA. Information submitted as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Where information provided in comments is claimed to be CBI, the submitter should provide EPA with two versions of the comments.

One version should contain the CBI, clearly identifying what is claimed as CBI. The other version should have the CBI material deleted; this latter version will be placed in the public record for this action. If possible, this latter version should describe, in language that can be made public, the nature of the deleted CBI. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record

EPA has established a new record for this ANPR and any subsequent related rulemaking (docket number OPTS–62033). The record in support of the 4(f) determination is filed separately (docket number OPTS–44004) but will be incorporated by reference into the new record. Nonconfidential information, along with a complete index, is available for inspection in the OTS Reading Room 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays, in Rm. E–107, 401 M St., SW., Washington D.C. 20460. This record includes basic information considered by the Agency in developing this ANPR. The Agency will supplement the record with additional information as it is received.

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(Sec 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605))

List of Subjects in 40 CFR Part 765

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Formaldehyde.

Dated: May 18, 1984.

Alvin L. Alm,

Deputy Administrator.

[FR Doc. 84–13828 Filed 5–21–84; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44007; TSH-FRL 2581-5a]

Formaldehyde; Determination of Significant Risk

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On November 18, 1983, (48 FR 52507) EPA announced in the **Federal Register** its decision to rescind its previous decision that section 4(f) of the Toxic Substances Control Act (TSCA) did not apply to formaldehyde and to reconsider the issue. The public was given 60 days to comment on whether formaldehyde should be given priority consideration under section 4(f). The comment period ended January 17, 1984. After reviewing the public comments and the health and exposure data relevant to formalaldehyde, EPA has determined that section 4(f) does apply to two formaldehyde exposure categories. The exposures which triggered this decision are those associated with manufacture of apparel from fabrics treated with formaldehyde-based resins and residence in conventional and manufactured homes containing construction materials in which certain formaldehyde-based resins are used.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: After review of the scientific data and public comments relevant to formaldehyde, EPA has determined that there may be a reasonable basis to conclude that certain exposures to formalaldehyde present or will present a significant risk of widespread harm to human beings from cancer. The exposures which triggered this decision are those associated with manufacture of apparel from fabrics treated with formaldehyde resins and residence in conventional and manufactured (mobile) homes containing construction materials in which certain formaldehyde resins are used. It is with respect to these two exposures that EPA believes the criteria of section 4(f) are met. The basis for this determination and the announcement of the start of a regulatory review of the exposure categories of concern can be found in an Advance Notice of Proposed Rulemaking published elsewhere in today's issue of the **Federal Register.**

Dated: May 18, 1984.

Alvin L. Alm,

Deputy Administrator.

[FR Doc. 84-13829 Filed 5-21-84; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
May 23, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

NGPA Notices of Determinations by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1127]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: March 17, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM 83–50–000, 49 FR 7109–13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New res. on old OCS lease
103: New onshore production well

Section 107–DP: 15,000 ft or deeper
107–GB: Geopressured brine
107–DV: Devonian shale
107–CS: Coal seam gas
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1127

ISSUED MAY 17, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-SOUTHWESTERN EXPLOR CONSULTANTS INC RECEIVED: 04/26/84 JA: OK									
8430765	10013	3508300000	D	103		AUDREY #2		0.0	EASON OIL CO
TEXAS RAILROAD COMMISSION									
-AMINOIL USA INC				RECEIVED:	04/30/84	JA: TX			
8430873	F-08-076676	4246131843		103		UNIVERSITY #25	MCELROY FIELD	25.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/30/84	JA: TX			
8430850	F-03-076184	4219931280		103		G W BROOKS FEE #57	SILSBEE (Y)	70.0	TEXAS EASTERN TRA
-ASAMERA OIL U S INC				RECEIVED:	04/30/84	JA: TX			
8430837	F-7B-075890	4244132444		102-4		R MCNIECE #3	MCNIECE (GRAY 4070)	40.0	LONE STAR GAS CO
-ATOKA EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430862	F-09-076415	4249732423		103		DAHLIN #1	BOONSVILLE (BEND CONG	292.0	TEXAS UTILITIES F
-AWS PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430872	F-7B-076669	4213334383		102-4		HARBIN #1	FLATWOOD EAST (GARDNE	0.0	FLATWOOD GAS INC
-BJB EXPLORATION CO				RECEIVED:	04/30/84	JA: TX			
8430804	F-02-074579	4246900000		102-4 103		TUCH #1-C	COLOGNE (2870)	50.0	
-BRIDWELL OIL CO				RECEIVED:	04/30/84	JA: TX			
8430884	F-09-076983	4223734895		102-4		ETHEL CONNER #1	WILDCAT	180.0	SOUTHWESTERN GAS
8430885	F-09-076988	4250300000		102-4		STEWART HEIRS #2	WILDCAT	55.0	SOUTHWESTERN GAS
-BROKEN HILL PROP HOLDINGS USA INC				RECEIVED:	04/30/84	JA: TX			
8430819	F-02-075151	4246932005		102-4		TRAYLOR #3	HEYSER (6025) FIELD	0.0	HOUSTON PIPE LINE
-C F LAWRENCE & ASSOC INC				RECEIVED:	04/30/84	JA: TX			
8430815	F-7C-074964	4210534620		103		TODD "Z" #1	TODD W (SAN ANDRES)	0.0	APACHE GAS CORP
-CAMFRO INC				RECEIVED:	04/30/84	JA: TX			
8430861	F-7B-076395	4204933662		103		RATCLIFF & SPARKS #1	BROWN COUNTY REGULAR	0.0	SOUTHWESTERN GAS
8430860	F-7B-076394	4204933818		103		RATCLIFF & SPARKS #3	BROWN COUNTY REGULAR	0.0	SOUTHWESTERN GAS
-CENERGY EXPLORATION CO				RECEIVED:	04/30/84	JA: TX			
8430791	F-04-072180	4235500000		103		CHAPMAN HEIRS #39-1	"WILDCAT"	0.0	HOUSTON PIPELINE
8430788	F-06-071075	4200131391		102-4		HANKS ET AL #1	BLACKFOOT NORTH	0.0	ESPERANZA PIPELIN
8430793	F-02-072779	4205700000		102-4 103		MAUDE TRAYLOR #1	WILDCAT	0.0	AMERICAN PIPELINE
8430792	F-03-072689	4270830248		102-4 103		STATE TRACT SW/4 #8	HIGH ISLAND BLOCK 10-	0.0	TRANSCONTINENTAL
-CHAMPLIN EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430847	F-03-076066	4205132576		102-2		BARNETT-LAMB #1	GIDDINGS (AUSTIN CHAL	18.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/30/84	JA: TX			
8430784	F-08-070262	4204130940		102-2		CHARLES PATRANELLA #1	KURTEN (BUDA)	56.0	FERGUSON CROSSING
8430833	F-03-075849	4204130469		102-2		PRESTON RUFFINO JR #1	KURTEN (BUDA)	13.5	FERGUSON CROSSING
-CONVEST ENERGY CORP				RECEIVED:	04/30/84	JA: TX			
8430817	F-03-075026	4235100000		103		HANKAMER #7	GIST (WALDEN)	0.0	TEXAS EASTERN TRA
-COPET INC				RECEIVED:	04/30/84	JA: TX			
8430775	F-7B-066497	4204933014		108		JACK MYRICK #1 (ID 101001)	BROWN COUNTY REGULAR	14.4	LONE STAR GAS CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430846	F-10-076062	4229531349		103		MILLIE #1	BRADFORD (CLEVELAND)	0.0	
8430783	F-10-069334	4235700000		108		SCHOENHALS #1	ELLIS RANCH	0.0	DIAMOND CHEMICALS
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	04/30/84	JA: TX			
8430824	F-06-075309	4206730437		102-4		CRYSTAL RAMBO #2-L	RODESSA	219.0	BRECKENRIDGE GASO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DALECO RESOURCES				RECEIVED:	04/30/84	JA: TX			
8430790	F-03-072021	4204130944		102-4	103	TERREL GAS UNIT #2	CLAY NE (EDWARDS LIME	1800.0	CLAJON GAS CO
-DFC OIL AND GAS CO				RECEIVED:	04/30/84	JA: TX			
8430785	F-10-070433	4208700000		103		E WISCHKAEMPER #2-E	PANHANDLE EAST	100.0	EL PASO NATURAL G
-DIRECTION ENERGY CORP				RECEIVED:	04/30/84	JA: TX			
8430845	F-10-076057	4234131139		103		BRUMLEY #2	PANHANDLE (MOORE COUN	100.0	DIAMOND CHEMICALS
-DISCOVERY OPERATING INC				RECEIVED:	04/30/84	JA: TX			
8430868	F-7C-076588	4238332681		103		HICKMAN #9	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
8430875	F-7C-076814	4238332680		103		HUGHES #3	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-DON H HANVEY OIL INTERESTS INC				RECEIVED:	04/30/84	JA: TX			
8430830	F-7B-075722	4221333349		102-4		CITY OF CISCO #2 RRC LEASE # 18921	HANVEY (LAKE SAND)	123.0	EL PASO HYDROCARB
-EDWIN L COX				RECEIVED:	04/30/84	JA: TX			
8430794	F-8A-072811	4216900000		102-4		HUNTLEY #4-G	HUNTLEY	1.0	MIDPLAINS PIPELIN
-GEOSOUTHERN ENERGY CORP				RECEIVED:	04/30/84	JA: TX			
8430777	F-03-067675	4247730482		102-2	103	CAROLYN "A" #1	GIDDINGS (AUSTIN CALK	0.0	PHILLIPS PETROLEU
8430773	F-03-062956	4247730488		102-2	103	MARY BARRON #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430886	F-04-076996	4247900000		102-4	107-TF	DIX RANCH #99-B	DIX RANCH (LOWER WILC	0.0	HOUSTON PIPELINE
8430806	F-04-074587	4235500000		102-4		GUARANTY TITLE & TRUST #3	CORPUS CHRISTI W (AND	0.0	DELHI GAS PIPELIN
8430770	F-10-052881	4229500000		108-ER		M F CUNNINGHAM #1	BECHTOLD (TONKAWA)	36.0	INTERNORTH INC
-GHR ENERGY CORP				RECEIVED:	04/30/84	JA: TX			
8430823	F-04-075230	4250531643		102-4		ASCHE #6	CHARCO (9900)	600.0	GHR PIPELINE CORP
8430822	F-04-075229	4247933610		102-4	107-TF	B M T #16	LA ROSITA (LOBO)	500.0	GHR PIPELINE CORP
8430839	F-04-075930	4247933476		102-4	107-TF	BRUNI RANCH #10	BRUNI RANCH (LOBO) PR	150.0	GHR PIPELINE CORP
8430851	F-04-076224	4250531665		102-4	107-TF	LA PERLA #46	J C MARTIN W (LOBO 76	600.0	GHR PIPELINE CORP
8430838	F-04-075901	4250531660		102-4	107-TF	LA PERLA #47	MCMURREY (LOBO)	1200.0	GHR PIPELINE CORP
-GLOBE ENERGY INVESTMENT INC				RECEIVED:	04/30/84	JA: TX			
8430834	F-7B-075855	4242933712		102-4		TOLAND #1 (20694)	GLOBE (DUFFER)	47.0	SOUTHWESTERN GAS
-GRAHAM ENERGY LTD				RECEIVED:	04/30/84	JA: TX			
8430780	F-7B-068156	4235331404		103		JAMESON C-3	JAMESON NORTH (ELLENB	0.0	SUN OIL CO
-GRAND BANKS ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8430881	F-7B-076918	4208333560		103		GRAY "A" #4	COLEMAN COUNTY REGULA	7.3	UNION TEXAS PETRO
-GULF OIL CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430818	F-10-075093	4221131600		103		ISAACS #5-210	CANADIAN SE (DOUGLAS)	252.2	WESTAR TRANSMISSI
8430880	F-10-076904	4239330950		102-4	103	JOHN HAGGARD #51-6	QUINDUNO (COUNCIL GRO	178.7	NATURAL GAS PIPEL
-HENDON EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430882	F-08-076978	4217331464		102-4		POWELL "32-A" #3	POWELL (PENN)	0.0	PHILLIPS PETROLEU
-HOME PETROLEUM CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430789	F-02-071850	4223931485		103		CAROLINE COE UNIT #1	APPLING POINT (F-21-B	0.0	ALUMINUM CO OF AM
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/30/84	JA: TX			
8430869	F-03-076594	4214931652		102-2		ALISON #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8430829	F-03-075604	4228731360		102-2		CHARLOTTE H #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8430871	F-03-076597	4214931630		102-2		JEANE B #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8430870	F-03-076595	4228731507		102-2		MCCOY #2	GIDDINGS (AUSTIN CHAL	0.0	
-J C DANIELS ENERGY				RECEIVED:	04/30/84	JA: TX			
8430826	F-10-075427	4217931459		103		HENDRIX #2	PANHANDLE	2.0	CABOT PIPELINE CO
-JOHN L COX				RECEIVED:	04/30/84	JA: TX			
8430776	F-08-067414	4232900000		103		BUCHANAN F #24 RRC #21939	SPRABERRY (TA)	10.0	PHILLIPS PETR CO
-K-N OPERATING CORP				RECEIVED:	04/30/84	JA: TX			
8430820	F-01-075178	4217731382		102-2		WELLS #1	CHRISTIAN (6800)	0.0	ORECA GAS CORP
-KATLACO OPERATING CO INC				RECEIVED:	04/30/84	JA: TX			
8430821	F-7B-075221	4213334100		102-4		CARL CORR "A" #1 (20665)	HANVEY (LAKE SAND)	32.0	EL PASO HYDROCARB
-L TEXAS PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8430778	F-04-067778	4224700000		102-4	103	MESTENA OIL & GAS #S-2	MESTENA GRANDE WEST (	0.0	AMERICAN PIPELINE
-LANDMARK EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430848	F-03-076121	4204130955		102-2		J G BOEGNER #1	KURTEN (BUDA)	547.5	FERGUSON CROSSING
-LEWIS & ATKINS OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8430852	F-7C-076244	4238332755		103		LEESON #1	SPRABERRY (TREND AREA	45.0	EL PASO NATURAL G
-LOUTEX-ASSOC				RECEIVED:	04/30/84	JA: TX			
8430863	F-03-076418	4204100000		102-2		LOUTEX - ASOCO GRANBERRY #1	WILDCAT KURTEN (BUDA)	0.0	FERGUSON CROSSING
-MARATHON OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430865	F-03-076528	4232131326		103		OHIO-SUN UNIT #30-J	NORTH MARKHAM-NORTH B	47.4	TRANSCONTINENTAL
-MID-TEX ENERGY INC				RECEIVED:	04/30/84	JA: TX			
8430874	F-7B-076714	4208300000		102-4		MULLINS #2	TAMCO (ELLENBURGER)	73.0	UNION TEXAS PETRO
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430772	F-09-061553	4249700000		108		B E ADAMS #1 #15087	BRIDGEPORT NORTH (ATO	8.7	NATURAL GAS PIPEL
8430771	F-09-055150	4223700000		108-ER		MINNIE PRICE #1	PERRIN NW	0.0	SOUTHWESTERN GAS
8430853	F-09-076258	4223700000		108		R L BOYD #1 #16552	KRAMBERGER (ATOKA CON	0.0	NATURAL GAS PIPEL
-MORRELL & PARROTT				RECEIVED:	04/30/84	JA: TX			
8430798	F-7B-073240	4220700000		102-4		V A REAMES "12" #3 (105601)	REAMES WEST (SWASTIKA	730.0	HASKELL GATHERING
-MOSELEY PETROLEUM CORP				RECEIVED:	04/30/84	JA: TX			
8430836	F-02-075881	4246932035		102-4		CRABTREE #1C	HEYSER EAST (8350)	0.0	HOUSTON PIPE LINE
8430883	F-02-076981	4246932108		102-4		CRABTREE #2-C	HEYSER E (8350)	0.0	HOUSTON PIPELINE
-NEWPORT PETROLEUMS INC				RECEIVED:	04/30/84	JA: TX			
8430802	F10-074306	4248331122		102-4		SHELTON #1-83	CANDICE (MORROW)	30.0	HIGH PLAINS NATUR
-NEWTON OIL & GAS CORP				RECEIVED:	04/30/84	JA: TX			
8430805	F-04-074583	4247933543		103	107-TF	BARREDA #6	LAS TIENDAS (OLMOS) F	0.0	TEJAS GAS CORP
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	04/30/84	JA: TX			
8430808	F-8A-074672	4211531760		102-4		WOODWARD TRUST #1 (64196)	PHIL WRIGHT (SPRABERR	529.0	PHILLIPS PETROLEU
8430807	F-8A-074671	4211531821		102-4		WOODWARD TRUST #2 (64196)	PHIL WRIGHT (SPRABERR	638.0	PHILLIPS PETROLEU
8430809	F-8A-074673	4211531807		102-4		WOODWARD TRUST "A" #1 (64343	PHIL WRIGHT (SPRABERR	70.0	PHILLIPS PETROLEU
-OWL PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430842	F-03-076024	4248132538		102-4		G H HARFST JR #2	BLACK OWL	100.0	HOUSTON PIPE LINE
-PALMER PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8430827	F-06-075478	4234700000		103		GRAFTON #1	TRAWICK (PETTET)	500.0	INTRASTATE GATHER
-PARKER & PARSLEY INC				RECEIVED:	04/30/84	JA: TX			
8430801	F-08-074062	4232900000		103		KLAPPROTH #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PENN-TEX PETROLEUM				RECEIVED:	04/30/84	JA: TX			
8430831	F-7B-075761	4213334265		102-4		THOMAS ET AL #1 RRC LEASE NO 19340	HANVEY (LAKE SAND)	61.0	EL PASO HYDROCARB
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/30/84	JA: TX			
8430787	F-04-071020	4221500000		108-ER		GARCIA UNIT #1	SAN CARLOS	0.0	TRUNKLINE GAS CO
-PHARAOH & ASSOCIATES INC				RECEIVED:	04/30/84	JA: TX			
8430769	F-03-047893	4204100000		102-2	103	MAURO #1 WELL UNIT	KURTEN (BUDA)	0.0	PRODUCERS GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/30/84	JA: TX			
8430799	F-10-073329	4239300000		103		LARONA #11	QUINDUNO - LOWER ALBA	0.0	
-ROBERT KLABZUBA				RECEIVED:	04/30/84	JA: TX			
8430864	F-06-076435	4200131400		102-4		WORTHAM J L ETAL #1A	JECAN (JAMES LIME) FI	100.0	LONE STAR GAS CO
-ROYAL OIL & GAS CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430859	F-01-076378	4231131869		102-4	103	BRACKEN RANCH #5	A W P (OLMOS)	292.0	HOUSTON PIPE LINE
8430877	F-01-076838	4231131910		102-4	103	BRACKEN RANCH #6	A W P (OLMOS)	292.0	HOUSTON PIPE LINE
8430878	F-01-076839	4231131949		102-4	103	BRACKEN RANCH #8	A W P (OLMOS)	292.0	HOUSTON PIPE LINE
-SABINE PRODUCTION COMPANY				RECEIVED:	04/30/84	JA: TX			
8430849	F-04-076175	4235532155		102-4	103	FLOYD W BROWN #1	LUCKY NUMBERS CD8	0.0	
8430854	F-08-076295	4231732778		103		MABEE "B-2" #3	BREEDLOVE SOUTH (SPRA	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8430867	F-08-076569	4210333279		103		RENAUD #20	ABELL (MCKEE NW)	0.0	NORTHERN GAS PROD
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	04/30/84	JA: TX			
8430797	F-03-073019	4207131439		102-4		J F HAYNES #1 42-071-31439	WHITES BAYOU S (9060)	0.0	
-SEAGULL RESOURCES INC				RECEIVED:	04/30/84	JA: TX			
8430795	F-03-072877	4215700000		102-4		CHERNOSKY #1	ROSENBERG (VICKSBURG	0.0	SOUTH GULF ENERGY
-SHILLELAGH CORP				RECEIVED:	04/30/84	JA: TX			
8430835	F-7B-075867	4242933232		103		H WILSON "D" #1 18634	STEPHENS COUNTY REGUL	75.0	WARREN PETROLEUM
-STAHL PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430782	F-10-069199	4217931208		108		REEVES HEIRS #1	WEST PANHANDLE	0.0	PHILLIPS PETROLEU
-TED TRUE INC				RECEIVED:	04/30/84	JA: TX			
8430841	F-10-075968	4234130980		103		BRENT 66-07	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8430840	F-10-075967	4234130979		103		BRENT 66-08	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
-TEE OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8430786	F-10-070790	4228330965		102-4		SOUTH TEXAS SYNDICATE 2-110	TWO FINGERS EAST (WIL	0.0	REATA INDUSTRIAL
-TENNECO OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430768	F-10-043268	4221131343		103		DIXON #2-56	BUFFALO WALLOW	165.0	
-TEXACO INC				RECEIVED:	04/30/84	JA: TX			
8430832	F-08-075838	4243131387		102-4		E B COPE #7	CONGER S W (PENN)	374.1	REATA INDUSTRIAL
8430876	F-08-076835	4243131345		107-TF		STERLING "I" FEE #6	CONGER S W (PENN)	384.0	REATA INDUSTRIAL
8430800	F-8A-073525	4216532602		103		WHARTON UNIT #136	HARRIS	4.4	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	04/30/84	JA: TX			
8430767	F-7B-036160	4244700000		102-4		J H THOMAS WELL #1 (ID# 08435)	BRYLE WEST (CADDO 469	0.0	WARREN PETROLEUM
-TOM BROWN INC				RECEIVED:	04/30/84	JA: TX			
8430879	F-7C-076883	4243533000		103	107-TF	HILL-WINNIE R ALDWELL TRUST "B" #1	ALDWELL (RANCH) CANYO	73.0	LONE STAR GAS CO
-TRINITY RESOURCES INC				RECEIVED:	04/30/84	JA: TX			
8430774	F-02-065244	4223931610		102-4		J M BENNETT UNIT #1-T	APPLIED FOR	18.3	DELHI GAS PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	04/30/84	JA: TX			
8430796	F-02-072889	4246931741		102-4		ADCOCK 2	RICHARD ADCOCK (3050'	0.0	UNITED GAS PIPELI
8430825	F-05-075416	4216130644		102-4		BLAIR #1	BEAR GRASS NE (COTTON	0.0	DELHI GAS PIPELIN
8430816	F-02-075016	4212331318		102-4		HAUSMAN G U 1	MEYERSVILLE E	0.0	LONE STAR GAS CO
8430844	F-03-076042	4215731435		102-4		MEANS "C" #1	HUNGERFORD N (VICKSBU	0.0	
8430843	F-03-076025	4248100000		102-4		MEEK E-1	LOUISE N	0.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	04/30/84	JA: TX			
8430828	F-03-075567	4228730963		102-2		EUGENIA #1 RRC ID #16249	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-WILLIAMS BOB				RECEIVED:	04/30/84	JA: TX			
8430866	F-7B-076545	4242933717		103		LEDBETTER #1	BILLY-BOB	205.0	CLOVER OIL & GAS
-WILSHIRE OIL CO OF TEXAS				RECEIVED:	04/30/84	JA: TX			
8430766	F-7C-009021	4246100000		103		JACOBS LIVESTOCK #1-D	HELUMA EAST DEVONIAN	120.0	PHILLIPS PETROLEU
-WINDSOR GAS CORP				RECEIVED:	04/30/84	JA: TX			
8430810	F-7C074815	4243532799		103	107-TF	DUKE WILSON #218	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
-WINN EXPLORATION/DULCE CO				RECEIVED:	04/30/84	JA: TX			
8430779	F-10-067882	4250731762		102-4		PRYOR RANCH #100	WINN-DULCE	0.0	VALERO TRANSMISSI
8430813	F-01-074822	4250731857		102-4		PRYOR RANCH #168	WINN-DULCE	0.0	VALERO TRANSMISSI
8430811	F-10-074820	4250731913		102-4		PRYOR RANCH #204	WINN-DULCE	0.0	VALERO TRANSMISSI
8430814	F-01-074823	4250731912		102-4		PRYOR RANCH #206	WINN-DULCE	0.0	VALERO TRANSMISSI
8430781	F-10-068829	4250731910		102-4		PRYOR RANCH #208	WINN-DULCE	0.0	NORTHERN NATURAL
8430812	F-10-074821	4250731887		102-4		PRYOR RANCH #210	WINN-DULCE	0.0	VALERO TRANSMISSI
-WOODS PETROLEUM CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430855	F-8A-076317	4207931820		102-4		RJR RANCH #203	BONANZA (SAN ANDRES)	11.0	WARREN PETROLEUM
8430858	F-8A-076320	4207931819		102-4		RJR RANCH #807	BONANZA (SAN ANDRES)	11.0	WARREN PETROLEUM
8430856	F-8A-076318	4207931832		102-4		RJR RANCH #808	BONANZA (SAN ANDRES)	11.0	WARREN PETROLEUM
8430803	F-10-074469	4221131565		102-4		WATERFIELD #1	WATERFIELD	1450.0	WESTAR TRANSMISSI
8430857	F-10-076319	4221131599		102-4		WATERFIELD #15 A	WATERFIELD	606.0	WESTAR TRANSMISSI
**********									
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER, CO									
**********									
-CONOCO INC				RECEIVED:	04/23/84	JA: CO F			
8430763	CD 0112-83SA	0510305109		108-SA		EAST DRAGON TRAIL #1	DOUGLAS CREEK	0.0	
-TEXACO INC				RECEIVED:	04/23/84	JA: CO F			
8430764	CD 0201-83	0506705269		108		SOUTHERN UTE TRIBE #6	IGNACIO MESA VERDE	5.0	EL PASO NATURAL G
**********									
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM									
**********									
-HASELOFF CORP				RECEIVED:	04/24/84	JA: NM L			
8430761	RNM 0087-84	3004110647		108		MORGAN "C" FEDERAL #1	CHAVEROO SAN ANDRES	1.9	CITIES SERVICE OI
-LYNX PETROLEUM CONSULTANTS INC				RECEIVED:	04/24/84	JA: NM L			
8430762	RNM 0141-84	3002527861		103		LYNX FEDERAL #4	MALJAMAR GRAYBURG - S	6.5	PHILLIPS PETROLEU

[FR Doc. 84-13836 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1128]

NGPA Notices of Determination By Jurisdictional Agencies

Issued: May 17, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New res. on old OCS lease

103: New onshore production well

Section 107-DP: 15,000 ft or deeper
- 107-GB: Geopressured brine
- 107-DV: Devonian shale
- 107-CS: Coal seam gas
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1128
ISSUED MAY 17, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	04/30/84	JA: TX			
8430906	F-04-077689	4224931725		102-2		HUNTER #1	MUERTO CREEK (YEGUA 2	450.0	NUE-WELLS PIPE LI
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431034	F-08-080177	4231732884		103		ELLIS UNIT #2	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8430988	F-08-079652	4231722416		103		EPLEY A-6	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
8430979	F-8A-079401	4244531153		103		MCMAHON #2	PRENTICE N W (SAN AND	9.0	AMOCO PRODUCTION
8431035	F-08-08179	4231732853		103		STROUD #2	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8430897	F-03-077324	4247720615		102-2		WARE #2	GIDDINGS AUSTIN CHALK	2260.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8431043	F-8A-080302	4230330955		103		ANTON IRISH CLEARFORK UNIT #438	ANTON IRISH	19.0	WESTAR TRANSMISSI
8431044	F-8A-080303	4230330960		103		ANTON IRISH CLEARFORK UNIT #472	ANTON IRISH	14.0	WESTAR TRANSMISSI
8431045	F-8A-080304	4230330961		103		ANTON IRISH CLEARFORK UNIT #474	ANTON IRISH	13.0	WESTAR TRANSMISSI
8430965	F-10-079018	4217931377		103		WILLIAM JACKSON #12	PANHANDLE - GRANITE W	5.0	PHILLIPS PETROLEU
-ATWELL OIL CO INC				RECEIVED:	04/30/84	JA: TX			
8430926	F-7B-078272	4205900000		102-4		A TATOM #1	MIS RAIZES (DUFFER)	0.0	SOUTHWESTERN GAS
-AUSTIN OIL & MINERAL				RECEIVED:	04/30/84	JA: TX			
8430987	F-03-079619	4228700000		102-4		BLAHA 2 A	DIME BOX NAVARRO	0.0	PHILLIPS PETROLEU
-B & N PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8430888	F-06-077092	4240131789		103	107-TF	OAK HILL GAS UNIT #4	OAK HILL S (COTTON VA	360.0	TEXAS EASTERN TRA
-BELCO DEVELOPMENT CORP				RECEIVED:	04/30/84	JA: TX			
8430972	F-7C-079160	4210531114		108		UNIVERSITY 13-2	INGHAM (DEVONIAN)	0.0	EL PASO NATURAL G
-BLACK GOLD ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8430943	F-10-078612	4206500000		103		EAKIN 1	PANHANDLE CARSON COUN	480.0	GETTY OIL CO
8430944	F-10-078613	4206500000		103		EAKIN 2	PANHANDLE CARSON COUN	480.0	GETTY OIL CO
8430945	F-10-078614	4206500000		103		EAKIN 3	PANHANDLE CARSON COUN	48.0	GETTY OIL CO
8430946	F-10-078615	4206500000		103		EAKIN 4	PANHANDLE CARSON COUN	480.0	GETTY OIL CO
-BRIDWELL OIL CO				RECEIVED:	04/30/84	JA: TX			
8430922	F-09-078201	4250337374		102-4		STEWART HEIRS #3	STEWART (MARBLE FALLS	20.0	SOUTHWESTERN GAS
8430921	F-09-078198	4250301218		102-4		STEWART HEIRS #4	STEWART (MARBLE FALLS	40.0	SOUTHWESTERN GAS
-BROCK KELLY				RECEIVED:	04/30/84	JA: TX			
8430887	F-03-077080	4220131570		102-4		KELLY-BROCK FEE #3-A	GREENS BAYOU (8620 VI	0.0	LONE STAR GAS CO
-C & K PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8430951	F-08-078667	4243131435		103		GUNTER 25-4	CONGER (PENN)	0.0	VALERO TRANSMISSI
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	04/30/84	JA: TX			
8431008	F-04-079989	4235532238		102-2		MUSTANG ISLAND ST PK TR 2 #4	SHELL POINT (6B)	753.0	HOUSTON PIPE LINE
-COLORADO INTERSTATE GAS CO				RECEIVED:	04/30/84	JA: TX			
8430898	F-10-077338	4223331615		103		DUNAWAY A-4	WEST PANHANDLE	0.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED:	04/30/84	JA: TX			
8430919	F-04-078086	4247933734		102-4	103	CARLOS BENAVIDES #2	PICOSO (CARRIZO 7800)	260.0	HOUSTON PIPELINE
8430996	F-08-079759	4213500000		103		EAST COWDEN GRAYBURG #60 ID #22927	NORTH COWDEN	0.0	AMOCO PRODUCTION
-COPET INC				RECEIVED:	04/30/84	JA: TX			
8431005	F-7B-079949	4204933704		102-4		LEDA TWYMAN #1 (RRC 108334)	BRANDT (FRY)	20.0	EL PASO HYDROCARB
-D L DORLAND				RECEIVED:	04/30/84	JA: TX			
8431033	F-08-080163	4222732616		103		M M EDWARDS "GH" #1	DORLAND (WOLFCAMP)	42.0	GETTY OIL CO
-DANCO OIL & GAS				RECEIVED:	04/30/84	JA: TX			
8430967	F-10-079035	4206530949		108		MCCONNELL #5	PANHANDLE CARSON COUN	1.0	GETTY OIL CO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DELTA DRILLING CO				RECEIVED:	04/30/84	JA: TX			
8430890	F-03-077192	4237300000		102-4	103	KIRBY LUMBER CO #1	DALLARDSVILLE	0.0	HOUSTON PIPE LINE
-DOUBLE RIVER OIL & GAS CO				RECEIVED:	04/30/84	JA: TX			
8430994	F-7B-079718	4236732620		102-4		TILLMAN #3	DICEY S (CONGL B)	300.0	TEXAS UTILITIES F
-DYAD ASSOCIATES				RECEIVED:	04/30/84	JA: TX			
8431009	F-7C-080007	4208131224		103		BLANKS "B" #1 #10224	JAMESON (STRAWN)	13.0	SUN EXPLORATION &
-DYNE OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8430982	F-10-079516	4223331665		103		STEVENSON #6 (RRC #01595)	PANHANDLE	0.0	DIAMOND SHAMROCK
-EADS OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8430902	F-03-077492	4207131467		102-4		STATE LEASE 303 #2	BAYVIEW N (F-14) (958	23.0	HOUSTON OIL & MIN
-ENRE CORP				RECEIVED:	04/30/84	JA: TX			
8430925	F-09-078261	4233732095		102-4		J E KEMP #1 (23753)	SUNSET (CADDO CONGL)	164.0	TEXAS UTILITIES F
8431047	F-7B-080323	4205934247		102-4		SNYDER MINERAL TRUST "143" #3 19970	SMT (CROSSCUT) DS	5.0	BENGAL GAS TRANSM
8431046	F-7B-080321	4205934493		102-4		SNYDER MINERAL TRUST "143" #7 19970	SMT (PALO PINTO)	12.0	BENGAL GAS TRANSM
-EXXON CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430977	F-03-079320	4205132598		102-2		COOKS POINT UNIT #2 #2	GIDDINGS (AUSTIN CHAL	28.0	FERGUSON CROSSING
8430935	F-08-078523	4210333314		103		J B TUBB A/C 1 #288	SAND HILLS (JUDKINS)	98.0	EL PASO HYDROCARB
8430896	F-08-077301	4210332628		103		JUDKINS GAS UNIT #3 #247	SAND HILLS (JUDKINS)	62.0	EL PASO NATURAL G
8430895	F-08-077300	4210332496		103		JUDKINS GAS UNIT NO 1 #21	SAND HILLS (JUDKINS)	69.0	EL PASO NATURAL G
8430948	F-7C-078647	4208131233		103		LOU E JOHNSON ESTATE A/C 1 #56	JAMESON (STRAWN)	20.0	
8430957	F-04-078889	4204731301		103		MCGILL BROS 500-F (ID PENDING)	KELSEY DEEP (60-H) (P	118.0	TRUNKLINE GAS CO
8430950	F-08-078655	4200333841		103		MEANS/SAN ANDRES/UNIT #7168	MEANS	15.0	PHILLIPS PETROLEU
8430949	F-08-078651	4200333591		103		MEANS/SAN ANDRES/UNIT 6560	MEANS	15.0	PHILLIPS PETROLEU
8430938	F-04-078555	4226130661		102-4		MRS S K EAST 129-F (108918)	RITA (2-KII)	153.0	NATURAL GAS PIPEL
8431003	F-03-079888	4215731473		102-4		PECAN GROVE GAS UNIT 7 #1	PECAN GROVE SW (7700)	350.0	ARMCO STEEL CORP
-FAGADAU ENERGY CORP				RECEIVED:	04/30/84	JA: TX			
8431027	F-09-080103	4207732904		102-4		SCALING RANCH "F" #2	TALLY (MARBLE FALLS)	10.0	BLUEGROVE GASOLIN
8431026	F-09-08102	4207700000		102-4		SCALING RANCH "F" #4	TALLY (MARBLE FALLS)	15.0	BLUEGROVE GASOLIN
-FAIRCHILD PETROLEUM CORP				RECEIVED:	04/30/84	JA: TX			
8430934	F-7B-078516	4208333523		102-4		J B HAMON "C" #2C	DELTA (PALO PINTO)	300.0	EL PASO HYDROCARB
-FALCON PETROLEUM COMPANY				RECEIVED:	04/30/84	JA: TX			
8430941	F-10-078570	4229531381		102-4		ELDA ANN #1	NANCY (TONKAWA)	0.0	PHILLIPS PETROLEU
-GALAXY OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8431029	F-10-080110	4223300000		103		HUBER PRITCHARD "A" #9	PANHANDLE HUTCHINSON	11.0	J M HUBER CORP
-GENERAL PRODUCTION CO INC				RECEIVED:	04/30/84	JA: TX			
8430909	F-03-077788	4205132575		102-2		CHARLES J CONDON #2	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8430910	F-03-077789	4205132573		103		GROVER KEY #4	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8430908	F-03-077786	4228731474		102-2		RANDOLPH LEHMANN #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8430973	F-03-079184	4247730533		102-2		WEBER UNIT 1 #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GRAND BANKS ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8430891	F-08-077231	4200333774		103		RIGGAN #1	FUHRMAN-MASCHO	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430923	F-10-078211	4221131610		103		ISAACS #6-209	CANADIAN SE (DOUGLAS)	0.0	WESTAR TRANSMISSI
-H & S OPERATING INC				RECEIVED:	04/30/84	JA: TX			
8430892	F-09-077252	4223735669		103		CHERRYHOMES #4	CHAPMAN-CHERRYHOMES (	75.0	TEXAS UTILITIES F
-HARRISON INTERESTS LTD				RECEIVED:	04/30/84	JA: TX			
8430989	F-03-079666	4207131076		102-4	103	GEORGE P MCNEIR #2	SMITH POINT E (F-22 L	365.0	HOUSTON PIPELINE
8430968	F-7C-079051	4210534679		103	107-TF	JOE F BEAN "D" #7	PIKES PEAK DRAW (CANY	300.0	INTRATEX GAS CO
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	04/30/84	JA: TX			
8430894	F-06-077299	4220331062		102-4		MARSHALL BRICK PLANT #1	WARE (COTTON VALLEY)	175.0	HENDERSON CLAY PR
-HERD PRODUCING COMPANY INC				RECEIVED:	04/30/84	JA: TX			
8430952	F-05-078672	4229330695		102-4	103	W O STONE #1	FARRAR N (COTTON VALL	286.0	TEXAS UTILITIES F
8430952	F-05-078672	4229330695		107-TF		W O STONE #1	FARRAR N (COTTON VALL	286.0	TEXAS UTILITIES F
-HILL PRODUCTION CO-WISCONSIN				RECEIVED:	04/30/84	JA: TX			
8430905	F-03-077590	4233930604		103		EOLA G FROST #2	LAKE CREEK (G)	0.0	TEJAS-SOUTHWESTER
8431030	F-03-080112	4204131058		102-2		WICKSON WARRIOR #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HILLIARD OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8430914	F-02-077930	4217531778		102-4		ANNIE WEISE #1	WEESATCHE WEST (HOLT	540.0	
-HNG OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430974	F-04-079286	4247933775		102-4	107-TF	HIRSCH ESTATE "240" #2	JUANITA (LOBO)	0.0	HOUSTON PIPE LINE
8430915	F-7C-077972	4243500000		103	107-TF	VANDERSTUCKEN "47" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8430955	F-7C-078778	4243500000		103	107-TF	VANDERSTUCKEN "51" #6	SAWYER (CANYON)	0.0	INTRATEX GAS CO
-HOLIDAY RESOURCES INC				RECEIVED:	04/30/84	JA: TX			
8430966	F-04-079028	4224931683		103		E PEREZ WELL #3	PREMONT (SINGER 3100)	20.0	TENNECO CHEMICALS
-J A LEONARD				RECEIVED:	04/30/84	JA: TX			
8430991	F-03-079678	4228700000		102-4		L R WIELDERHOLD #1	HOOKER CREEK (NAVARRO	55.0	PHILLIPS PETROLEU
8430990	F-03-079677	4228700000		102-4		MUELLER "A" #3	HOOKER CREEK (NAVARRO	50.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	04/30/84	JA: TX			
8430936	F-03-078543	4232131333		103		C J ANDERSON #3	LUCKY (GOLA)	85.0	TENNESSEE GAS PIP
-JONES CO				RECEIVED:	04/30/84	JA: TX			
8431041	F-7B-080293	4241735606		103		WALKER-BUCKLER "JCS" #1	FORT GRIFFIN NE (MISS	36.5	DELHI GAS PIPELIN
-JONES EXPLORATION CO				RECEIVED:	04/30/84	JA: TX			
8430947	F-02-078637	4246931846		102-4		W A KYLE JR #1	PENDING - NURSERY (YE	33.0	LONE STAR GAS CO
-KEY PRODUCTION COMPANY				RECEIVED:	04/30/84	JA: TX			
8430969	F-06-079136	4241930461		103		ED CHILDRESS #2C	JOAQUIN (LOWER PETTIT	700.0	SOUTHERN NATURAL
-LEE BROTHERS OIL & GAS PRODUCTION				RECEIVED:	04/30/84	JA: TX			
8431042	F-7B-080294	4213300000		108		J A RUTHERFORD #1	EASTLAND COUNTY REGUL	11.0	EL PASO HYDROCARB
-LEONARD BROTHERS OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8430995	F-7B-079756	4242933937		102-4		A FAMBRO "D" #2 (OIL)	MCBRIDE (BEND CONGLOM	18.0	SOUTHWESTERN GAS
-MARATHON OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430984	F-06-079538	4240131818		102-4		S H MOORES #P-1	TALIFERRO (PETTIT)	49.6	ARCO OIL & GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430927	F-06-078344	4240131698		102-4	103	CRAIG #1	PENN GRIFFITH W (PETT	300.0	HENDERSON CLAY PR
-MAY PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8431037	F-10-080229	4235731411		103		MURPHY #1	CREST (DES MOINES)	91.3	
-MCGOLDRICK OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430997	F-06-079764	4236531601		103		ROBINSON #1	BECKVILLE WEST (TRAVI	45.6	UNITED GAS PIPELI
-MESA PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430999	F-8A-079802	4211531909		103		BARRETT "11" #1	WELCH SE (SPRABERRY)	70.0	
-MIRAMAR PETROLEUM INC				RECEIVED:	04/30/84	JA: TX			
8430958	F-04-078902	4221531382		102-4		NOSER GAS UNIT WELL 1-L	HIDALGO N E (8005) -	670.0	
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431024	F-7B-080088	4214330370		102-4		C F KEITH #2 80572	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431023	F-7B-080087	4214330425		102-4		C F KEITH #3 82132	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431022	F-7B-080086	4214330453		102-4		C F KEITH #4 #83303	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431021	F-7B-080085	4214330478		102-4		C F KEITH #5 83309	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431025	F-7B-080089	4214330475		102-4		C L YARBROUGH #1 #83310	MORGAN MILL (MARBLE F	0.0	EMPIRE PIPELINE C
8430937	F-03-078547	4249700000		108-PB		G H GORE #1 084860	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8431017	F-7B-080081	4214300000		102-4		IRA HUFFSTUTLER #1 #85027	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431020	F-7B-080084	4214330376		102-4		O C WINSLETT #1 83790	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431016	F-7B-080080	4214330320		102-4		PARKEY RANCH #1 #80872	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431015	F-7B-080079	4214330332		102-4		PARKEY RANCH #4 80585	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431010	F-7B-080074	4214330355		102-4		PARKEY RANCH #6 80571	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431018	F-7B-080082	4214300000		102-4		PARKEY RANCH #8 82083	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8431019	F-7B-080083	4214330481		102-4		PARKEY RANCH #9 83789	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431014	F-7B-080078	4214330330		102-4		R T DRAKE #1 80607	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431011	F-7B-080075	4214330452		102-4		R T DRAKE #2 80608	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431013	F-7B-080077	4214330366		102-4		R T DRAKE #3 80978	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
8431012	F-7B-080076	4214330349		102-4		R T DRAKE "A" #1 80608	MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/30/84	JA: TX			
8430911	F-03-077824	4219931390		102-4		PICA INVESTMENT VENTURE #2	SOUR LAKE E (YEQUA UP	0.0	TRANSCONTINENTAL
-MOSBACHER PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8430981	F-01-079515	4201332403		103		JOHN L DORNAK GAS UNIT #2	JOURDANTON FIELD	290.0	TRANSCONTINENTAL
-MURPHY H BAXTER				RECEIVED:	04/30/84	JA: TX			
8430942	F-01-078595	4231131898		102-4		HAGIST RANCH UNIT #1	HAGIST RANCH N (WILCO	219.0	UNITED TEXAS TRAN
-NORTH RIDGE CORP				RECEIVED:	04/30/84	JA: TX			
8430924	F-7B-078218	4213335177		103		R T RIDDEL #1	EASTLAND COUNTY REGUL	0.0	PRISM ENTERPRISES
-OWL PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430903	F-02-077553	4223931210		102-4		WILLIAM BORCHERS #3	MCDANIEL	64.0	TEXAS EASTERN TRA
-P & R OIL INC				RECEIVED:	04/30/84	JA: TX			
8431028	F-7B-080109	4213335442		102-4		BAGGETT #2	LEE RAY (DUFFER LIME	110.0	LONE STAR GAS CO
-PALOMA CATTLE CO INC				RECEIVED:	04/30/84	JA: TX			
8430917	F-01-078044	4231131826		102-4 103		EDNA G HENRY WELL #1	A W P (OLMOS)	22.0	H P I TRANSMISSIO
8430916	F-01-078041	4231131880		102-4 103		EDNA G HENRY WELL #2	A W P (OLMOS)	46.0	H P I TRANSMISSIO
-PARKER & PARSLEY INC				RECEIVED:	04/30/84	JA: TX			
8430932	F-08-078509	4232900000		103		BEAL SNYDER "C" #1	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
8430869	F-08-077104	4231700000		103		HOLT "A" WELL #1		1.5	PHILLIPS PETROLEU
8430931	F-08-078508	4231700000		103		HYATT #2	SPRABERRY (TREND AREA	1.5	PHILLIPS PETROLEU
-PAUL D FRIEMEL & ASSOCIATES INC				RECEIVED:	04/30/84	JA: TX			
8431002	F-08-79855	4200332380		103		THORNBERRY II #9	FUHRMAN-MASCHO	18.3	PHILLIPS PETROLEU
-PETROLEUM INTERNATIONAL INC				RECEIVED:	04/30/84	JA: TX			
8431006	F-10-079958	4217931552		103		VANIMAN #8	PANHANDLE GRAY	23.7	KERR-MCGEE CORP
-PETROPOOL INC				RECEIVED:	04/30/84	JA: TX			
8430983	F-7B-079534	4205934301		102-4		R H MCADAMS #1 (20202)	SWEET ALLICE (ELLENBU	18.0	PECOS GATHERING S
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/30/84	JA: TX			
8430918	F-10-078057	4234131072		103		WITHERBEE H D #4	PANHANDLE	0.0	EL PASO NATURAL G
8430899	F-10-077368	4223331692		103		YAKE G #16	PANHANDLE (HUTCHINSON	0.0	EL PASO NATURAL G
-PIACO INC				RECEIVED:	04/30/84	JA: TX			
8430970	F-08-079143	4237134534		103		IRT LORETTA #3	PECOS VALLEY (HIGH GR	32.8	PERRY PIPELINE CO
8430971	F-08-079146	4237133927		103		UNSICKER 3U	PECOS VALLEY (HIGH GR	18.3	PERRY PIPELINE CO
-POLK & PATTON INC				RECEIVED:	04/30/84	JA: TX			
8430930	F-03-078493	4205132601		102-2		GARDNER #4	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8430912	F-01-077850	4217731432		102-2		VICKERS #1	PEACH CREEK (BUDA)	21.0	ORECA GAS CORP
-R H SIEGFRIED INC				RECEIVED:	04/30/84	JA: TX			
8431004	F-09-079934	4223700000		108		CHERRYHOMES T H 1-F	BOONSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
-RAILHEAD ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8430980	F-09-079426	4207733275		103		J D FARMER #1	EANES (CONGLOMERATE)	50.0	TUFCO
-SABINE PRODUCTION COMPANY				RECEIVED:	04/30/84	JA: TX			
8430901	F-08-077373	4231732779		103		MABEE "B-4" #5	BREEDLOVE SOUTH (SPRA	0.0	PHILLIPS PETROLEU
8430900	F-08-077372	4231732795		103		M W MADISON #2	SPRABERRY (TREND AREA	0.0	
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	04/30/84	JA: TX			
8430933	F-02-078515	4229733232		103		BRYSCH-OWENS GU #1 WELL #1	GEORGE WEST W (6400)	0.0	UNITED TEXAS TRAN
8430929	F-04-078435	4213136262		102-4		WELDER J F HEIRS #1-591	SEVEN SISTERS E - REA	0.0	
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	04/30/84	JA: TX			
8430998	F-03-079779	4228731397		103		J KNOX #2	GIDDINGS (BUDA)	0.0	PERRY PIPELINE CO
-SEQUOIA FOSSIL FUELS INC				RECEIVED:	04/30/84	JA: TX			
8431038	F-7B-080230	4205934111		103		EARP #1 ID #105616	ISENHOWER SE (DUFFER)	164.0	BENGAL GAS TRANSM
8431039	F-7B-080231	4205934677		103		EARP #2 ID #105192	ISENHOWER SE (DUFFER)	164.0	BENGAL GAS TRANSM
8431040	F-7B-080232	4205934296		103		HOWE #1 ID #107301	ISENHOWER SE (DUFFER)	164.0	BENGAL GAS TRANSM
-SERENDIPITY EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8430978	F-7B-079348	4236732609		102-4		JONES ESTATE #3	DENNIS WEST (STRAWN)	90.0	NORTHERN GAS PROD
-STALEY OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8431031	F-7C-080118	4243533031		103	107-TF	MASTERSON 37 #3U	PHYLLIS SONORA	228.0	INTRATEX GAS CO
-STANLEY OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8430928	F-7C-078386	4243533044		103	107-TF	HICKS 58 "A" #5	MIERS	160.0	INTRATEX GAS CO
-STORM PRICHARD CO				RECEIVED:	04/30/84	JA: TX			
8430940	F-02-078562	4202500000		103		JOEL WAHLBER #1-C	SLIVA (2800)	29.5	GULF STATES EQUIT
8430939	F-02-078561	4202500000		103		JOEL WAHLBERG #1-T	TYNAN (FRIO 2800)	12.0	GULF STATES EQUIT
-STRINGER OIL & GAS				RECEIVED:	04/30/84	JA: TX			
8430976	F-7C-079295	4210534100		103		SHANNON ESTATE "1" -1C	ESCONDIDO S (STRAWN L	950.0	PHILLIPS PETROLEU
-STUART DEVELOPMENT CO				RECEIVED:	04/30/84	JA: TX			
8431049	F-09-080349	4233732135		103		EDWARDS-MOORE #1	BOEDEKER S E (CONGLOM	20.0	TEXAS UTILITIES F
-SUE-ANN OIL & GAS CO				RECEIVED:	04/30/84	JA: TX			
8431036	F-03-080227	4203900000		107-PE		JOE HEIM JR #2	CHENANGO (8900-A-SD)	80.0	AMOCO GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8430920	F-7B-078133	4213334815		103		NORTH CENTRAL RANGER UNIT #12-16	EASTLAND COUNTY REGUL	7.0	SUN GAS TRANSMISS
-SUPERIOR OIL CO				RECEIVED:	04/30/84	JA: TX			
8430904	F-03-077588	4232131315		102-4 103		J D GOODALL #1	WADSWORTH S E (GOODAL	372.0	
-TAD ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8430986	F-7B-079592	4236300000		103		TAD ENERGY - C P CLAYTON #4	PALO PINTO COUNTY REG	0.0	LONE STAR GAS CO
-TAMARACK PETROLEUM CO INC				RECEIVED:	04/30/84	JA: TX			
8431001	F-08-079843	4232931260		103		TURNER "40" #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
-TEAGUE OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8430975	F-7B-079287	4204933843		102-4		GERALD L CALLAWAY	THRIFTY S (CHAPPEL RE	900.0	EL PASO HYDROCARB
-TENNECO OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8430964	F-10-078977	4221131618		103		DIXON 3-56	BUFFALO WALLOW (GRANI	200.0	WESTAR TRANSMISSI
-TEXAS AMERICAN OIL CORP				RECEIVED:	04/30/84	JA: TX			
8430913	F-08-077885	4222733046		103		REED #2	HOWARD GLASSCOCK	36.9	PHILLIPS PETROLEU
-THE ARD DRILLING COMPANY INC				RECEIVED:	04/30/84	JA: TX			
8431048	F-8A-080336	4211531905		103		W E LOVE "A" #4	JO-MILL (SPRABERRY)	14.6	TEXACO INC
-TOM BROWN INC				RECEIVED:	04/30/84	JA: TX			
8431032	F-08-080133	4231732735		103		AMOCO HOLT #8	BREEDLOVE SOUTH (SPRA	18.0	NORTHERN GAS PROD
-TXO PRODUCTION CORP				RECEIVED:	04/30/84	JA: TX			
8430962	F-05-078970	4216130648		102-4		BLOUNT "A"	REED N (BOSSIER SD)	0.0	DELHI GAS PIPELIN
8430961	F-05-078969	4216130672		102-4		BROWN "K" #1	BEAR GRASS NE (COTTON	0.0	DELHI GAS PIPELIN
8430960	F-06-078967	4245930586		102-4		HERRMANN	GILMER (BOSSIER SD)	0.0	DELHI GAS PIPELIN
8430959	F-05-078964	4216130655		102-4		HILL "F" #1	NAN-SU-GAIL (BOSSIER	0.0	DELHI GAS PIPELIN
8430963	F-05-078971	4216130605		102-4		LAMBERT "B" #1	BEST (BOSSIER SAND)	0.0	DELHI GAS PIPELIN
-WCS PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430954	F-03-078775	4228731538		102-2		EL CAPITAN #1	GIDDINGS BUDA	0.0	PERRY GAS CO INC
8430953	F-03078774	4228731551		102-2		IRA J LEHMANN UNIT #1-A	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WENEEDA GAS CO				RECEIVED:	04/30/84	JA: TX			
8430992	F-7B-079706	4204900000		102-4		BELLE T DAVIS #2 (092714)	WEENEDA	83.0	EL PASO HYDROCARB
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	04/30/84	JA: TX			
8431007	F-09-079973	4223735512		102-4 103		MAXWELL #1	PEARL (BASIL)	0.0	TEXAS UTILITIES F
8430907	F-09-077727	4223735303		103		PEARL MOSLEY "A" #2-C	JACK COUNTY REGULAR	0.0	SOUTHWESTERN GAS
-WILSON ENERGY INC				RECEIVED:	04/30/84	JA: TX			
8431000	F-08-079821	4232931147		103		BROOKS #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
-WINN EXPLORATION/DULCE CO				RECEIVED:	04/30/84	JA: TX			
8430956	F-01-078795	4250731222		102-4		PRYOR RANCH #24	WINN-DULCE	0.0	DOS ARCOS CORP
8430893	F-01-077291	4250731119		102-4		SMYTH #9	JUDGE MILLS	0.0	NORTHERN NATURAL
-WOODBINE EXPLORATION				RECEIVED:	04/30/84	JA: TX			
8430993	F-7B-079710	4225332839		103		WILDER #3	NOODLE N (CISCO LOWER	21.6	PALO DURO PIPELIN
-WORTH PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8430985	F-08-079565	4217331372		103		SCHAFER #1	APPLE CREEK (CISCO)	15.0	PHILLIPS PETROLEU

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NGPA Notices of Determination By Jurisdictional Agencies

Issued: May 17, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83–50–000, 49 FR 7109–13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC, 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New res. on old OCS lease
103: New onshore production well
Section 107–DP: 15,000 ft or deeper
107–GB: Geopressured brine
107–DV: Devinian shale
107–CS: Coal seam gas
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Temporary pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED MAY 17, 1984

VOLUME 1129

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431051	F-08-080355	4231732870		103		EPLEY "A" #7	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
8431205	F-08-080842	4231732852		103		HOWARD #3	SPRABERRY (TREND AREA	10.0	NORTHERN NATURAL
8431204	F-08-080840	4231732886		103		TOM "A" #4	SPRABERRY (TREND AREA	20.0	NORTHERN NATURAL
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	04/30/84	JA: TX			
8431235	F-08-080892	4213534262		103		EAST PENWELL (SAN ANDRES) UT #1005	PENWELL	4.0	PHILLIPS PETROLEU
8431234	F-08-080891	4213534261		103		EAST PENWELL (SAN ANDRES) UT #1211	PENWELL	5.0	PHILLIPS PETROLEU
8431233	F-08-080890	4213534260		103		EAST PENWELL (SAN ANDRES) UT #1212	PENWELL	5.0	PHILLIPS PETROLEU
8431232	F-08-080889	4213534259		103		EAST PENWELL (SAN ANDRES) UT #1314	PENWELL	4.0	PHILLIPS PETROLEU
8431230	F-08-080887	4213534257		103		EAST PENWELL (SAN ANDRES) UT #1915	PENWELL	4.0	PHILLIPS PETROLEU
8431231	F-08-080888	4213534258		103		EAST PENWELL (SAN ANDRES) UT #1410	PENWELL	5.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8431236	F-8A-080900	4250132471		103		WASSON ODC UNIT #549	WASSON	23.0	SHELL OIL CO
8431237	F-8A-080901	4250132469		103		WASSON ODC UNIT #551	WASSON	54.0	SHELL OIL CO
8431238	F-8A-080902	4250132468		103		WASSON ODC UNIT #552	WASSON	91.0	SHELL OIL CO
8431239	F-8A-080903	4250132425		103		WASSON ODC UNIT #559	WASSON	50.0	SHELL OIL CO
8431240	F-8A-080904	4250132466		103		WASSON ODC UNIT #564	WASSON	75.0	SHELL OIL CO
8431241	F-8A-080905	4250132465		103		WASSON ODC UNIT #565	WASSON	33.0	SHELL OIL CO
8431242	F-8A-080906	4250132464		103		WASSON ODC UNIT #566	WASSON	25.0	SHELL OIL CO
8431243	F-8A-080907	4250132426		103		WASSON ODC UNIT #567	WASSON	80.0	SHELL OIL CO
-ARDEN OIL CORP				RECEIVED:	04/30/84	JA: TX			
8431175	F-7C-080780	4210500000		108		SKELLY UNIVERSITY #1	LANCASTER HILLS	18.0	EL PASO NATURAL G
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8431125	F-09-080595	4223735762		103		HONEY #2 (RRC ID N/A)	DEARING (CADDO)	0.0	LONE STAR GAS CO
-BRUCE OPERATING CO				RECEIVED:	04/30/84	JA: TX			
8431147	F-09-080691	4223734976		103		D L MURRY ET AL #1 (23172)	JACK COUNTY REGULAR	25.0	LONE STAR GAS CO
-BURK ROYALTY CO				RECEIVED:	04/30/84	JA: TX			
8431168	F-09-080753	4248731711		103		LANCASTER #3	WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C
-CHASE PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8431154	F-10-080698	4223300000		108		R L POND #1 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431153	F-10-080697	4223300000		108		R L POND #2 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431151	F-10-080695	4223300000		108		R L POND #3 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431152	F-10-080696	4223300000		108		R L POND #5 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431150	F-10-080694	4223300000		108		R L POND #6 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431149	F-10-080693	4223300000		108		R L POND #7 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
8431148	F-10-080692	4223300000		108		R L POND #8 RRC-00760	PANHANDLE	3.0	GETTY OIL CO
-COASTAL OIL & GAS CORP				RECEIVED:	04/30/84	JA: TX			
8431165	F-8A-080738	4216532759		103		SO HARRIS UNIT 10-8X	HARRIS	2.0	PHILLIPS PETROLEU
8431224	F-8A-080880	4216532655		103		SO HARRIS UNIT 12-6	HARRIS	5.0	PHILLIPS PETROLEU
8431202	F-8A-080837	4216532658		103		SO HARRIS UNIT 12-7	HARRIS	2.0	PHILLIPS PETROLEU
8431203	F-8A-080838	4216532654		103		SO HARRIS UNIT 12-8	HARRIS	2.0	PHILLIPS PETROLEU
8431229	F-8A-080886	4216532653		103		SO HARRIS UNIT 6-24	HARRIS	3.0	PHILLIPS PETROLEU
8431164	F-8A-080737	4216532713		103		SO HARRIS UNIT 9-2	HARRIS	1.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	04/30/84	JA: TX			
8431109	F-08-080544	4237100000		108		CHARLES CANON #4 ID 72203	SHEFFIELD SW	9.8	INTRATEX GAS CO
8431072	F-08-080448	4222733033		103		G O CHALK E #23 ID 18991	HOWARD GLASSCOCK	0.4	PHILLIPS PETROLEU

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8431111	F-8A-080546	4211500000		108		GONZELL HOGG #2 ID 60914	ACKERLY NORTH	0.7	GETTY OIL CO
8431121	F-02-080579	4217500000		108		PETTUS UNIT #38	CABEZA CREEK (PETTUS)	19.0	UNITED GAS PIPELI
8431110	F-7B-080545	4215100000		108		ROUND TOP CANYON SAND ID 19080	ROUND TOP	10.7	LONE STAR GAS CO
8431157	F-04-080707	4242700000		108		T B SLICK EST E-537 #23	RINCON (VXBG BLOCKS 1	2.0	TENNESSEE GAS PIP
-CONQUEST EXPLORATION CO				RECEIVED:	04/30/84	JA: TX			
8431107	F-7C-080537	4210534617		103	107-TF	HELEN HENDERSON WEST 3-1 108603	DAVIDSON RANCH (PENN	300.0	INTRATEX GAS CO
-DELTA OIL & GAS CO				RECEIVED:	04/30/84	JA: TX			
8431070	F-7B-080439	4242900000		108		R J KELLY ESTATE H #1	STEPHENS COUNTY REGUL	0.0	LONE STAR GAS CO
-DISCOVERY EXPLORATION CORP				RECEIVED:	04/30/84	JA: TX			
8431054	F-7B-080392	4236300000		107-PE		C B LONG #2 044630	RECTOR	46.8	LONE STAR GAS CO
8431053	F-7B-080391	4236300000		107-PE		C B LONG #3 045697	RECTOR	54.0	LONE STAR GAS CO
-DYNE OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8431085	F-10-080501	4217931050		103		SKIDMORE #10 (RRC #00434)	PANHANDLE	0.0	GETTY OIL CO
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431144	F-02-080684	4239131657		102-4		V TATTON NO 2-LT - ID #108983	SALT CREEK S (FRIO 95	306.6	PUBLIC SERVICE EL
8431145	F-02-080686	4239131657		102-4		V TATTON NO 2-UT - ID #108982	SALT CREEK S (FRIO 89	328.5	PUBLIC SERVICE EL
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	04/30/84	JA: TX			
8431126	F-10-080596	4206531386		103		SAILOR #1 (106377)	PANHANDLE WEST	35.0	GETTY OIL CO
-EXXON CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431174	F-06-080777	4245930597		102-4	107-TF	GLADEWATER GAS UNIT 19 #1	GLADEWATER (HAYNESVIL	401.0	ARMCO STEEL CORP
8431208	F-04-080858	4226130859		102-4		JOHN G KENEDY JR "E" 46 (108817)	SARITA SW (B-82)	300.0	ARMCO STEEL CORP
8431207	F-04-080857	4227331822		102-4		KING RANCH BORREGOS M-43-BD 108909	BORREGOS (ZONE R-5 N)	564.0	ARMCO STEEL CORP
8431209	F-04-080859	4227331797		102-4		KING RANCH E LAURELES B-20-D 1410	BINA N E (H-50)	504.0	ARMCO STEEL CORP
8431166	F-04-080747	4204731270		103		MCGILL BROS 499 (10385)	KELSEY DEEP (FRIO 725	18.5	TRUNKLINE GAS CO
8431108	F-08-080538	4247500000		107-PE		PYOTE GAS UNIT #14-1	BLOCK 16 (ELLENBURGER	0.0	INTRATEX GAS CO
8431210	F-04-080860	4204731265		102-4		RJ KLEBERG JR QUITERIA P 109 108915	VIBORAS (8500 SOUTH)	360.0	ARMCO STEEL CORP
8431211	F-04-080861	4204731256		103		VIBORAS FIELD #1 V-115-D 108914	VIBORAS (MASSIVE SECO	329.0	ARMCO STEEL CORP
8431212	F-04-080862	4204731256		103		VIBORAS FIELD #1 V-115-F 108913	VIBORAS (ZONE 6 VI)	303.0	ARMCO STEEL CORP
-EZEKIEL ENERGY INC				RECEIVED:	04/30/84	JA: TX			
8431122	F-10-080589	4206531413		103		LUTHER 4-10 (ID# 05443)	PANHANDLE CARSON	40.0	KERR-MCGEE CORP
-FASKEN DAVID & INEZ C				RECEIVED:	04/30/84	JA: TX			
8431228	F-080884	4232931240		102-4		FEE "AA" WELL #1	MOONLIGHT (ELLENBERGE	72.0	ANCHUTZ CORP
-GENIE CORP				RECEIVED:	04/30/84	JA: TX			
8431146	F-7B-080690	4225331756		102-4		G S CHILDERS #1-A (20586)	JEFFERIES LUCK (BROWN	1.0	TEXAS UTILITIES F
-GETTY OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8431223	F-8A-080576	4207900000		108		C S DEAN "A" #102	SLAUGHTER	3.0	AMOCO PRODUCTION
8431221	F-8A-080874	4207900000		108		C S DEAN "A" #188	SLAUGHTER	1.0	AMOCO PRODUCTION
8431222	F-8A-080875	4207900000		108		C S DEAN "A" WELL #184	SLAUGHTER	0.8	AMOCO PRODUCTION
8431198	F-7B-080822	4243331750		103		FLOWERS CANYON SAND UNIT #232	FLOWERS (CANYON SAND)	3.3	CITIES SERVICE OI
8431197	F-7B-080821	4243331756		103		FLOWERS CANYON SAND UNIT #233	FLOWERS (CANYON SAND)	6.9	CITIES SERVICE OI
8431196	F-7B-080820	4243331755		103		FLOWERS CANYON SAND UNIT #234	FLOWERS (CANYON SAND)	8.0	CITIES SERVICE OI
8431195	F-7B-080819	4243331754		103		FLOWERS CANYON SAND UNIT #235	FLOWERS (CANYON SAND)	8.8	CITIES SERVICE OI
8431220	F-8A-080873	4221934187		103		H E THRUSTON #4	LEVELLAND	21.0	AMOCO PRODUCTION
8431192	F-08-080810	4210333292		103		NORTH MCELROY UNIT WELL #3934-F	MCELROY	1.0	PHILLIPS PETROLEU
8431193	F-08-08011	4210333293		103		NORTH MCELROY UNIT WELL #3935-F	MCELROY	1.0	PHILLIPS PETROLEU
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	04/30/84	JA: TX			
8431162	F-8A-080735	4244531127		103		M E JACOBSON #34	SLAUGHTER	17.9	AMOCO PRODUCTION
-GULF OIL CORPORATION				RECEIVED:	04/30/84	JA: TX			
8431115	F-10-080563	4219530010		108		BUCKNER BAPTIST #1	CLEMENTINE (UPPER MOR	21.2	NORTHERN NATURAL
8431096	F-08-080513	4213534420		103		GOLDSMITH C A #1426	GOLDSMITH (CLEARFORK)	18.3	PHILLIPS PETROLEU
8431097	F-08-080514	4213534421		103		GOLDSMITH C A ETAL #1427	GOLDSMITH (CLEARFORK)	39.4	PHILLIPS PETROLEU
8431098	F-08-080516	4213534419		103		GOLDSMITH C A ETAL #1429	GOLDSMITH (CLEARFORK)	106.7	PHILLIPS PETROLEU
-HALVEY ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8431052	F-7C-080357	4239900000		103		PARRAMORE #1	BRILEY S E (GARDNER L	45.0	UNION TEXAS PETRO
-HCW EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8431171	F-09-080773	4249731868		108		J C ROMINES #1 ID #097446	BOONSVILLE (BEND CONG	14.4	LONE STAR GAS CO
-HEA EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8431117	F-03-080569	4204131041		102-2		BRYAN UTILITIES LAKE #1 17235	KURTEN (BUDA)	0.0	FERGUSON CROSSING
8431116	F-03-080568	4204131064		102-2		BRYAN UTILITIES LAKE #3 17235	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HGI CORP				RECEIVED:	04/30/84	JA: TX			
8431079	F-03-080482	4248132551		102-4		LEHRER 1-A 108115	WHARCO-SHILLING (MIOC	110.0	HOUSTON PIPE LINE
-INDIAN WELLS OIL CO				RECEIVED:	04/30/84	JA: TX			
8431124	F-7C-080593	4223531842		103		PHILLIPS 1-5	IRION W (CANYON)	0.0	NORTHERN NATURAL
-KAARI OIL CO				RECEIVED:	04/30/84	JA: TX			
8431143	F-10-080683	4217931451		103		ALLENE #1 (ID #05663)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8431142	F-10-080682	4217931450		103		ALLENE #2 (ID #05663)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8431141	F-10-080681	4217931564		103		SHARI #1 (ID #05664)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8431140	F-10-080680	4217931563		103		SHARI #2 (ID #05664)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-KIRKPATRICK OIL CO				RECEIVED:	04/30/84	JA: TX			
8431094	F-10-080510	4217900000		108		BLAKE (00207) #1	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431086	F-10-080502	4217900000		108		BLAKE (00207) #10	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431093	F-10-080509	4217900000		108		BLAKE (00207) #2	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431092	F-10-080508	4217900000		108		BLAKE (00207) #3	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431091	F-10-080507	4217900000		108		BLAKE (00207) #5	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431090	F-10-080506	4217900000		108		BLAKE (00207) #6	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431089	F-10-080505	4217900000		108		BLAKE (00207) #7	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431088	F-10-080504	4217900000		108		BLAKE (00207) #8	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
8431087	F-10-080503	4217900000		108		BLAKE (00207) #9	PANHANDLE GRAY COUNTY	1.0	PHILLIPS PETROLEU
-L R SPRADLING				RECEIVED:	04/30/84	JA: TX			
8431129	F-10-080602	4223300000		103		MARNIE A #2	PANHANDLE HUTCHINSON	50.0	PHILLIPS PETROLEU
-MACINA PAUL T				RECEIVED:	04/30/84	JA: TX			
8431217	F-10-080868	4248330486		103		PAUL MACINA #1 (080681)	EAST PANHANDLE	15.0	HIGH PLAINS NATUR
-MARATHON OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8431194	F-7C-080817	4238300000		108		UNIVERSITY "8561" #67	BIG LAKE	5.5	DORCHESTER GAS PR
-MCCRACKEN OIL TRUST				RECEIVED:	04/30/84	JA: TX			
8431112	F-7B-080547	4209331123		102-4		NORM PIERSON #6 (19051)	PIERSON (MARBLE FALLS	109.0	SOUTHWESTERN GAS
-MCZ INC				RECEIVED:	04/30/84	JA: TX			
8431155	F-03-080700	4204100000		102-2		H J GENTRY NO 1-U	BRYAN N (WOODBINE)	40.0	FERGUSON CROSSING
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/30/84	JA: TX			
8431186	F-03-080797	4208900129		108		CHESTERVILLE UNIT #3	CHESTERVILLE (WILCOX	19.5	TENNESSEE GAS PIP
8431201	F-8A-080831	4216532644		103		H & J SECT 325 #15	ROBERTSON N (CLEARFOR	7.3	PHILLIPS PETROLEU
8431189	F-10-080801	4221131639		103		MARGARET HODGSON E #2	FELDMAN (TONKAWA)	81.0	TRANSWESTERN PIPE
8431188	F-8A-080799	4221934130		103		NORTH CENTRAL LEVELLAND UNIT #394	LEVELLAND	1.4	AMOCO PRODUCTION
8431187	F-8A-080798	4221934125		103		NORTH CENTRAL LEVELLAND UNIT #402	LEVELLAND	6.0	AMOCO PRODUCTION
8431191	F-08-080803	4232901561		108		PRESTON SPRABERRY UNIT #13-2	SPRABERRY/TREND AREA	1.0	EL PASO NATURAL G
8431190	F-08-080802	4230130489		102-4		W D JOHNSON 34-N #8	DIMMIT (CHERRY CANYON	21.0	INTRATEX GAS CO
-MONSANTO COMPANY				RECEIVED:	04/30/84	JA: TX			
8431169	F-8A-080754	4207931870		103		MASTEN NO 67R	LEVELLAND	15.0	CITIES SERVICE OI
-MORAN EXPLORATION INC				RECEIVED:	04/30/84	JA: TX			
8431170	F-7C-080771	4238330250		108		ROCKER B "B" #7 RRC-06141	SPRABERRY (TREND AREA	28.4	NORTHERN NATURAL
-MORRISON ENERGY CO				RECEIVED:	04/30/84	JA: TX			
8431161	F-7B-080730	4213334981		102-4		MARTIN #4 ID #20242	MORENCO (MARBLE FALLS	200.0	NORTHERN GAS PROD
-MOSBACHER PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8431172	F-02-080775	4228531759		102-4		LOWRANCE RANCH #3-U	EVANS (5400' YEGUA) F	14.0	
8431173	F-02-080776	4228531744		102-4		REUBEN BROWN #1-C	EVANS (7815)	219.0	
8431199	F-02-080827	4228531744		102-4		REUBEN BROWN #1-T	EVANS (5400' YEGUA)	14.0	
-N D STOVALL & SON				RECEIVED:	04/30/84	JA: TX			
8431156	F-09-080704	4250337314		103		MCCARROLL LSE #23901 PERMIT #206113	YOUNG COUNTY REGULAR	24.0	J H TAYLOR GAS CO
-NATURAL GAS ANADARKO INC				RECEIVED:	04/30/84	JA: TX			
8431200	F-10-080829	4235731437		103		EZ #2-90	FARNSWORTH S E (MORRO	20.0	PHILLIPS PETROLEU
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	04/30/84	JA: TX			
8431160	F-7C-080718	4238332817		103		HICKMAN #7 (10152)	PRICE (GRAYBURG)	50.0	JAMES L LAMB JR
8431123	F-8A-080590	4211531841		102-4		WOODWARD TRUST #3 (64196)	PHIL WRIGHT (SPRABERR	20.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ORLA PETCO INC				RECEIVED:	04/30/84	JA: TX			
8431081	F-08-080490	4238931398		103		SAND BEND #1	CHAPMAN S (OLDS)	18.2	
8431080	F-08-080489	4238931447		103		SAND BEND "A" #1	CHAPMAN	18.2	
-PANSTAR OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8431106	F-10-080536	4206531598		103		SANCHEZ #3 (ID# 05648)	PANHANDLE CARSON	40.0	CABOT PIPELINE CO
-PHILLIPS OIL CO				RECEIVED:	04/30/84	JA: TX			
8431078	F-08-080477	4213534336		103		(01567) VINA BAGLEY #22	FOSTER	3.0	ODESSA NATURAL CO
8431077	F-7B-080476	4226900069		108		(02838) STATE A GAO #1	KATZ (5100)	0.0	CITIES SERVICE CO
8431163	F-7C-080736	4246132055		103		(03913) N PEMBROOK S UNIT #19-03		4.0	PHILLIPS PETROLEU
8431076	F-7B-080475	4226900070		108		(04324) STATE B GAO #1	KATZ	0.0	CITIES SERVICE CO
8431136	F-08-080640	4210305422		108		(21554) CENTRAL DUNE (SA) U #302	DUNE	0.0	WARREN PETROLEUM
8431074	F-08-080472	4210305495		108		(21554) CENTRAL DUNE (SA) U #4013	DUNE	0.0	WARREN PETROLEUM
8431135	F-08-080639	4210305494		108		(21554) CENTRAL DUNE (SA) U #506	DUNE	0.0	WARREN PETROLEUM
8431073	F-080471	4210305168		108		(21554) CENTRAL DUNE (SA) U #6013	DUNE	0.0	WARREN PETROLEUM
8431134	F-08-080638	4210303681		108		(21554) CENTRAL DUNE (SA) U #603	DUNE	0.0	WARREN PETROLEUM
8431133	F-08-080637	4210303656		108		(21554) CENTRAL DUNE (SA) U #606	DUNE	0.0	WARREN PETROLEUM
8431075	F-08-080473	4210305462		108		(21554) CENTRAL DUNE (SA) U #902	DUNE	0.0	WARREN PETROLEUM
-PRAIRIE OIL CO				RECEIVED:	04/30/84	JA: TX			
8431216	F-10-080867	4206530969		103		ALLEN #1 (ID#04951)	PANHANDLE CARSON	79.0	GETTY OIL CO
8431215	F-10-080866	4206530971		103		ALLEN #2 (ID#04951)	PANHANDLE CARSON	86.0	GETTY OIL CO
8431219	F-10-080870	4206530950		103		BRUCE #1 (ID#04952)	PANHANDLE CARSON	68.0	GETTY OIL CO
8431218	F-10-080869	4206530970		103		BRUCE #2 (ID#04952)	PANHANDLE CARSON	97.0	GETTY OIL CO
8431214	F-10-080865	4206531534		103		DAN #1 (ID#05666)	PANHANDLE CARSON	40.0	GETTY OIL CO
8431213	F-01-080864	4206531535		103		DAN #2 (ID#05666)	PANHANDLE CARSON	40.0	GETTY OIL CO
-PROLER ENERGY INC				RECEIVED:	04/30/84	JA: TX			
8431101	F-7B-080523	4208331545		102-4		VAUGHN #11 (094851)	PROLER (BRENEKE)	474.0	CITY OF BRADY
8431100	F-7B-080521	4208331577	*	102-4		VAUGHN #12 (096805)	PROLER (MARBLE FALLS)	41.0	CITY OF BRADY
8431102	F-7B-080524	4208331615		102-4		VAUGHN #13 (094852)	PROLER (BRENEKE)	2646.0	CITY OF BRADY
8431159	F-7B-080716	4208331636		102-4		VAUGHN #14 (097394)	PROLER (CROSS CUT)	34.0	CITY OF BRADY
8431104	F-7B-080527	4208331785		102-4		VAUGHN #21 (095868)	PROLER (MARBLE FALLS)	346.0	CITY OF BRADY
8431105	F-7B-080528	4208331981		102-4		VAUGHN #24 (097524)	PROLER (MARBLE FALLS)	83.0	CITY OF BRADY
8431103	F-7B-080525	4208332070		102-4		VAUGHN #25 (097395)	PROLER (BRENEKE)	111.0	CITY OF BRADY
8431099	F-7B-080518	4208332167		102-4		VAUGHN #26 (098775)	PROLER (MARBLE FALLS)	11.0	CITY OF BRADY
-RICHEY & CO INC				RECEIVED:	04/30/84	JA: TX			
8431114	F-7B-080559	4242933924		102-4		M WINSTON "B" #1	SNOW (DUFFER)	47.0	ENSERCH EXPLORATI
-RIDGE OIL CO				RECEIVED:	04/30/84	JA: TX			
8431118	F-7B-080576	4213335619		102-4	103	HIGGINBOTHAM #3	REBECCA (MARBLE FALLS	27.4	COMPRESSOR RENTAL
8431119	F-7B-080577	4213335620		102-4	103	HIGGINBOTHAM #4	REBECCA (MARBLE FALLS	40.2	COMPRESSOR RENTAL
-ROBERTS & HAMMACK INC				RECEIVED:	04/30/84	JA: TX			
8431113	F-05-080554	4228930422		108		JIM HENSON #1 (RRC #098063)	RED OAK (SUB-CLARKSVI	12.5	LONE STAR GAS CO
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	04/30/84	JA: TX			
8431120	F-03-080578	4228731518		103		GEISLER UNIT #1	GIDDINGS (AUSTIN CHAL	58.0	PERRY PIPELINE CO
-SIDWELL OIL & GAS INC				RECEIVED:	04/30/84	JA: TX			
8431176	F-10-080787	4208700000		108		LAYCOCK #13	EAST PANHANDLE	20.6	
8431177	F-10-080788	4208700000		108		LAYCOCK #5	EAST PANHANDLE	21.7	
-SOHIO PETROLEUM CO				RECEIVED:	04/30/84	JA: TX			
8431132	F-7C-080616	4217331513		103		R S DAVENPORT "C" #18	CALVIN (DEAN)	0.0	EL PASO NATURAL G
-SOJOURNER DRILLING CORP				RECEIVED:	04/30/84	JA: TX			
8431127	F-7B-080599	4241735523		102-4		D PATTY #2	LILLY (3210) FIELD	0.0	NATURAL RESOURCES
-SOUTHLAND ROYALTY CO				RECEIVED:	04/30/84	JA: TX			
8431227	F-08-080883	4213534399		103		EDWARDS FIELD GRAYBURG UNIT #6-13	EDWARDS	2.0	PHILLIPS PETROLEU
8431226	F-08-080882	4213534398		103		EDWARDS FIELD GRAYBURG UNIT #6-14	EDWARDS	2.0	PHILLIPS PETROLEU
8431225	F-08-080881	4213534397		103		EDWARDS FIELD GRAYBURG UNIT #7-38	EDWARDS	2.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	04/30/84	JA: TX			
8431062	F-7B-080422	4242900000		108		A F LANGFORD #1	STEPHENS COUNTY REGUL	0.3	DAMSON GAS PROCES
8431158	F-7B-080711	4244731766		103		E E SMITH #4	BRYLE SOUTH	52.0	CLEAR FORK GAS CO
8431061	F-7B-080421	4242900000		108		E ELIASVILLE (CADDO) UT #65	STEPHENS COUNTY REGUL	0.2	BRECKENRIDGE GASO
8431058	F-7B-080418	4242900000		108		E ELIASVILLE (CADDO) UT #87	STEPHENS COUNTY REGUL	0.3	BRECKENRIDGE GASO
8431068	F-02-080434	4239100000		108-PB		J M OBRIEN #6-5	GRETA	4.0	UNITED TEXAS TRAN
8431057	F-7C-080417	4208100000		108		JAMESON STRAWN SAND UT #9-10	JAMESON	3.0	EL PASO NATURAL G
8431069	F-09-080435	4227500000		108		MAMIE MCFADDIN WARD -A- #8	LITTLE GIANT	0.4	
8431066	F-7B-080426	4213300000		108		N CENTRAL RANGER UNIT #12-16	EASTLAND COUNTY REGUL	3.0	SUN GAS TRANSMISS
8431055	F-7B-080415	4213300000		108		N CENTRAL RANGER UNIT #2-33	EASTLAND COUNTY REGUL	0.5	LONE STAR GAS CO
8431056	F-7B-080416	4213300000		108		N CENTRAL RANGER UNIT #5-27	EASTLAND COUNTY REGUL	4.0	LONE STAR GAS CO
8431063	F-7B-080423	4213300000		108		O H DELANO -E- #1	EASTLAND COUNTY REGUL	0.3	LONE STAR GAS CO
8431067	F-7B-080431	4213300000		108		O H DELANO #9	EASTLAND COUNTY REGUL	0.1	LONE STAR GAS CO
8431065	F-04-080425	4224900000		108		SEELIGSON UNIT #1-224C	SEELIGSON	1.0	TENNESSEE GAS PIP
8431059	F-04-080419	4224900000		108		SEELIGSON UNIT #11-1	SEELIGSON	4.0	TENNESSEE GAS PIP
8431060	F-04-080420	4224900000		108		SEELIGSON UNIT #40-13	SEELIGSON	1.0	TENNESSEE GAS PIP
8431064	F-09-080424	4209700000		108		SOUTH DOVE UNIT #5-3	SOUTH DOVE	0.3	
-SUNBELT EXPLORATIONS INC				RECEIVED:	04/30/84	JA: TX			
8431082	F-7B-080496	4236300000		102-4		MURPHY-STONE UNIT II WELL #1	MINERAL WELLS S (PEAK	108.0	SOUTHWESTERN GAS
-SUNRAY OIL CO INC				RECEIVED:	04/30/84	JA: TX			
8431131	F-10-080608	4234130942		103		ROBBIE JO #1	PANHANDLE MOORE COUNT	0.0	DIAMOND CHEMICALS
8431130	F-10-080607	4234131077		103		ROBBIE JO #4	PANHANDLE MOORE COUNT	0.0	DIAMOND CHEMICAL
-TAMARACK PETROLEUM CO INC				RECEIVED:	04/30/84	JA: TX			
8431084	F-08-080500	4232930834		103		BOONE #1 (RRC 25590)	SPRABERRY (TREND AREA	7.0	PHILLIPS PETROLEU
8431083	F-08-080499	4232930835		103		BOONE #2 (RRC #25590)	SPRABERRY (TREND AREA	9.0	PHILLIPS PETROLEU
8431137	F-08-080670	4232931252		103		BOONE #3 (RRC #25590)	SPRABERRY (TREND AREA	16.0	PHILLIPS PETROLEU
8431138	F-08-080671	4232931253		103		BOONE #4 (RRC #25590)	SPRABERRY (TREND AREA	17.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	04/30/84	JA: TX			
8431167	F-8A-080746	4250132432		103		EARNEST OWNBY #4	OWNBY (CLEARFORK UPPE	0.0	
-TEXACO INC				RECEIVED:	04/30/84	JA: TX			
8431139	F-08-080673	4200333025		103		J E MABEE "A" NCT-1 #26-A	MABEE	0.7	
-VERN WILSON ENERGY INC				RECEIVED:	04/30/84	JA: TX			
8431206	F-09-080856	4250333084		108		LAGUEY #3 RRC OIL LSE #19329	LAGUEY (CADDO)	14.0	J H TAYLOR GAS CO
8431128	F-09-080600	4250335179		103		LAQUEY - 22830 #A-4	LAQUEY (CADDO)	32.0	J H TAYLOR GAS CO
-W J WHITT				RECEIVED:	04/30/84	JA: TX			
8431185	F-7B-080796	4204933675		102-4		4 WB #10B (20140)	HAYES-ANNIE (BEND CON	28.0	EL PASO HYDROCARB
8431178	F-7B-080789	4204933611		102-4		4 WB #11B (20090)	DUDLEY (CADDO)	43.0	EL PASO HYDROCARB
8431179	F-7B-080790	4204933215		102-4		4 WB #2 B (20140)	HAYES-ANNIE (BEND CON	28.0	EL PASO HYDROCARB
8431180	F-7B-080791	4204933359		102-4		4 WB #5B (20140)	HAYES-ANNIE (BEND CON	29.0	EL PASO HYDROCARB
8431181	F-7B-080792	4204933355		102-4		4 WB #6B (20140)	HAYES-ANNIE (BEND CON	28.0	EL PASO HYDROCARB
8431182	F-7B-080793	4204933672		102-4		4 WB #7B (20140)	HAYES-ANNIE (BEND CON	28.0	EL PASO HYDROCARB
8431183	F-7B-080794	4204933673		102-4		4 WB #8 B (20140)	HAYES-ANNIE (BEND CON	28.0	EL PASO HYDROCARB
8431184	F-7B-080795	4204933674		102-4		4 WB #9B (20140)	HAYES-ANNIE (BEND CON	27.0	EL PASO HYDROCARB
-WALKER CHAS L (TX)				RECEIVED:	04/30/84	JA: TX			
8431071	F-08-080443	4210333264		103		FURR-TUBB #2	SAND HILLS (JUDKINS)	226.3	WARREN PETROLEUM
-WALKER OPERATING CORP				RECEIVED:	04/30/84	JA: TX			
8431250	F-10-080915	4217931396		103		BURGER #1	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431249	F-10-080914	4217931586		103		BURGER #3	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431245	F-10-080910	4217931419		103		MCKAY #2	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431244	F-10-080909	4217900000		103		MCKAY #3	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431246	F-10-080811	4217931406		103		SARGENT #1	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431248	F-10-080913	4217931511		103		SARGENT #3	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
8431247	F-10-080912	4217900000		103		SARGENT #4	PANHANDLE GRAY COUNTY	0.0	CABOT PIPELINE CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/30/84	JA: TX			
8431095	F-08-080512	4210333328		103		P J LEA ETAL (TRA) #181	LEA (SAN ANDRES)	6.5	EL PASO NATURAL G
-WESLEY SENKEL INC				RECEIVED:	04/30/84	JA: TX			
8431050	F-09-080352	4250337783		103		SENKEL-HAWKINS #A-5	LANGSTON-KLEINER (STR	0.0	MIDSTATE GAS CORP
**********									
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM									
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-HNG OIL COMPANY				RECEIVED:	04/23/84	JA: NM L			
8430222A	RNM 0132-84	3002528491		102-2		VACA RIDGE "4" FED COM #1	PITCHFORK RANCH	0.0	TRANSWESTERN PIPE

[FR Doc. 84-13838 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-C

federal register

Wednesday
May 23, 1984

Part VI

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

Procedures Governing Applications for Special Relief; Repeal of Regulations

Procedures Governing Applications for Special Relief; Order Repealing Special Relief Regulations; Withdrawal of Proposed Rulemaking

Establishment of Procedures for Collection of Excess Royalty Payments; Order Denying Petition for Rulemaking

Intent To Dismiss Pending Special Relief Cases; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Docket No. RM79-67-000]

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978; Order Terminating Rulemaking and Repealing Special Relief Regulations

Issued: May 8, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Repeal of regulations.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating three notices of proposed rulemaking in Docket No. RM79-67 in a document published elsewhere in this issue. These notices proposed a new special relief program which would have established procedures authorizing on a well-by-well basis, increases in maximum lawful prices for gas subject to section 104, 106, and 109 of the Natural Gas Policy Act of 1978. This order also repeals the existing special relief regulations, amends the Commission's optional certificate regulations, and sets forth the Commission's future policy for processing special relief petitions on the case-by-case basis. The Commission believes that a generic special relief rulemaking is unnecessary in light of the current gas surplus and recent Commission rulemakings.

EFFECTIVE DATE: The action taken in this order is effective on June 22, 1984.

FOR FURTHER INFORMATION CONTACT: Ken Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. Davis Hughes and Oliver G. Richard III.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is terminating three notices of proposed rulemaking in Docket No. RM79-67. Those notices [1] proposed a new special relief program which would have established procedures for authorizing on a well-by-well basis, increases in maximum lawful prices for gas subject to sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 (NGPA). This order also repeals the existing special relief regulations, amends the optional certificate regulations, and sets forth the Commission's future policy for processing special relief petitions on a case-by-case basis.

The Commission believes that a generic special relief rulemaking is unnecessary in light of the current gas surplus and recent Commission rulemakings. Chief among these rulemakings are the Commission's recent orders implementing section 110 of the NGPA and extending the production enhancement rule to interstate categories of gas. In lieu of establishing the standards for granting special relief by rule, the Commission will implement the authority under sections 104, 106, and 109 of the NGPA on a case-by-case basis.

II. Background

The Federal Power Commission [2] first considered "special relief" in its area rate proceedings under the Natural Gas Act (NGA). Special relief was to act as a "safety valve" for producers for whom gas sales at the applicable area rates might amount to an unconstitutional taking of private property without due process.[3]

The Commission recognized five different circumstances justifying special relief under the NGA. First, the FPC indicated in both the nation-wide and area-wide rate proceedings that "special circumstances" would qualify gas sales for special relief.[4] As an example of "special circumstances", the Commission referred to the "out-of-pocket" expense test, a situation in which operating costs exceeded revenues.

Second, the FPC authorized special relief for older vintage "flowing gas."[5] This rule was codified at 18 CFR 2.56b(h) and also used the "out-of-pocket" expense standard.

Third, the Commission adopted a special relief procedure as an alternative to abandoning wells nearing their economic limit.[6] This procedure, codified at 18 CFR 2.76, allowed recovery of added investment necessary to keep the well in production. This standard was less stringent than the "out-of-pocket" test, which allowed only recovery of operating costs. Additionally, the Commission established expedited procedures for low cost projects. 18 CFR 2.76(d) (1982).

Fourth, the Commission established a special relief provision, codified at 18 CFR 2.77, to induce sales of gas which would otherwise be flared.[7] No applications have been made to date under this procedure.

Lastly, the FPC promulgated the "optional certificate" procedures, codified at 18 CFR 2.75, as an alternative to area ratemaking.[8] Its purpose was to bring new, long-term dedications of gas into the interstate market by providing the incentives of higher rates and price certainty. As applied, this procedure allowed recovery of full cost of a gas supply project plus a fifteen percent return.

When Congress enacted the NGPA in 1978, it provided a link between the NGA's special relief procedures and the NGPA in sections 104(b)(2), 106(c), and 109(b)(2). These sections contain an identical provision which states that—

> The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas * * * otherwise subject to the proceeding provisions of this section, if such price is—
>
> (A) Higher than the maximum lawful price which would otherwise be applicable under such provisions; and
>
> (B) Just and reasonable within the meaning of the Natural Gas Act.

On December 1, 1978, the effective date of the NGPA, the Commission issued an order with respect to pending optional certificate cases. The order notified producers that the NGPA had superseded optional certificate procedures formulated under the NGA, that the producers could not collect more than the maximum lawful price for pending cases, and that the Commission

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[1] 44 FR 49,468 (Aug. 23, 1979); 45 FR 5312 (Jan. 23, 1980); 45 FR 31,744 (May 14, 1980).

[2] The Department of Energy Organization Act transferred to the Federal Energy Regulatory Commission various responsibilities formerly exercised by the Federal Power Commission. 42 U.S.C. 7171-7177 (1982).

[3] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968).

[4] See Opinion No. 699, 51 F.P.C. 2212, *aff'd sub nom.* Shell Oil Co. v. F.P.C., 520 F. 2d 1061 (1975).

[5] Opinion No. 749, 54 F.P.C. 3090, *aff'd sub nom.* Tenneco Oil Co. v. FERC, 571 F. 2d 834 (1978).

[6] 49 F.P.C. 992 (1973).

[7] 49 F.P.C. 996 (1973).

[8] *See e.g.*, American National Gas Production Co., Order Granting Certificate of Public Convenience and Necessity (Docket No. CI77-657) (Dec. 5, 1978). Although in theory optional certificate procedures were affirmed in Moss v. F.P.C., 424 U.S. 494 (1976), in practice no application has yet withstood judicial scrutiny. *See* Consumers Union of U.S., Inc. v. FPC, 510 F.2d 656 (1974), *reversing* Belco Petroleum Corp., Opinion No. 659, 49 F.P.C. 1154 (1973) and Public Service Commission of New York v. FERC, No. 76-1352, (D.C. Cir. Sept. 23, 1978), *reversing* Pennzoil Producing Co., Opinion No. 752, 55 FPC 449 (1976). The courts have reversed prices granted by the Commission because the Commission failed to justify the rate established.

intended to issue a transitional rule with respect to pending optional procedure cases.[9]

The Commission then issued three notices of proposed rulemaking in Docket No. RM79–67. These rules would have repealed the special relief and optional procedure programs and the regulations developed under the NGA, and substituted a special relief program under the NGPA that would have covered pending optional certificate and special relief cases, as well as cases filed in the future. The first notice proposed the full panoply of special relief rules—procedures, application requirements, substantive standards, *etc.* The second notice requested comment on four particularly difficult issues—ceilings on the special relief rate, the relationship between special relief and incentive prices under other NGPA sections, (*i.e.*, sections 107 or 108), procedures for reviewing applications, and the rate of return. The third phase requested comment on new substantive standards for determining the special relief rate. The last notice was issued in May 1980. The Commission received about 50 comments on these three notices. These comments focused almost exclusively on specific standards or procedures proposed by the Commission. Since it is terminating these proposals for the reasons given below, the Commission believes it is unnecessary to include a detailed analysis of the comments in this document.

III. Discussion

A. Terminating the Proposed Rulemakings

The quintessential situation in which special relief is necessary is where the costs of producing gas from a well are greater than the revenues allowed to be collected. Various factors have combined to reduce or virtually eliminate most of these types of situations and thus mitigate the need for a special relief rule.

The NGPA itself contains mechanisms, other than special relief, that allow a producer to get a price higher than that which would be applicable under sections 104, 106, and 109. For example, wells on certain acreage that might otherwise qualify as section 104 or 106 gas can collect substantially higher prices than the section 104 or 106(a) rate ($.29 to $2.38 in April 1984) by qualifying as new wells, where applicable, under sections 102 ($3.66 in April 1984) or 103 ($2.88 in April 1984). Similarly, certain wells producing below 60 mcf of natural gas per day can qualify for the stripper well price under section 108 of the NGPA ($3.92 in April 1984). Additionally, section 104(b)(1)(A)(ii) also provides an inflation adjustment (see, section 101), thereby lessening the likelihood that costs will exceed revenues.

The second factor eliminating revenue deficiencies relates to Commission action allowing producers in certain limited situations to collect prices higher than they would otherwise collect under section 104, 106, or 109. In January 1983, the Commission issued final rules implementing section 110 of the NGPA.[10] Under those rules, a qualifying first seller may collect, in addition to the otherwise applicable maximum lawful price, amounts incurred for certain production related activity. In September 1983, the Commission extended the production enhancement incentive price to interstate categories of gas under section 107(c)(5) of the NGPA.[11] Under that rule, a producer can collect up to the section 109 price ($2.38 in April 1984) for gas produced from a well otherwise subject to sections 104 and 106 if the gas produced from that well qualifies as production enhancement gas. Lastly, in 1980, the Commission established an incentive price ($5.76 in April 1984) for gas produced from tight formations.[12]

Because these rulemakings would usually cure those situations where costs exceed the relatively low section 104 or 106(a) revenues, the Commission believes that there are very few instances under the NGPA in which producers will need special relief. As discussed below, the Commission prefers to deal with those few situations in which special relief might be necessary on a case-by-case basis, rather than on a generic basis provided by a rulemaking. Accordingly, the Commission is terminating the three notices of proposed rulemaking in Docket No. RM79–67–000 in a document published elsewhere in this issue.

B. Future Special Relief Cases

As noted above, certain factors in the NGPA and the way in which this Commission has implemented the NGPA have alleviated the need for the Commission to exercise on a generic basis its authority under sections 104(b)(2), 106(c), and 109(b)(2) to provide special relief. The Commission recognizes, however, that there may be a limited number of special circumstances in which the Commission would grant a special relief rate. The Commission will, therefore, entertain on a case-by-case basis a producer's petition for a higher rate under sections 104(b)(2), 106(c), or 109(b)(2).[13] Such a petition should be filed under § 385.207 of the Commission's Rules of Practice and Procedure.

Although special relief standards will be developed on a case-by-case approach, certain observations on the nature and purpose of special relief are in order. The nature of special relief makes it a cumbersome and inefficient method of granting price relief to producers with uneconomic contracts. As traditionally implemented and as proposed in the Commission's special relief rulemakings, special relief would be granted on a well-by-well or project basis, must be cost justified to meet the "just and reasonable" standard of the NGA, and usually involves proceedings that require a substantial amount of the Commission's personnel resources. In return, the volumes of natural gas that are involved in individual special relief proceedings are usually relatively small. Contrasted against this situation are the situations in tight formation, production enhancement, or production-related costs. In these situations, there is a relatively small investment of Commission resources on a case-by-case basis but more significant volumes of gas involved.

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[9] Order with Respect to Optional Procedure Cases, Appalachian Exploration and Development, Inc., 5 FERC ¶ 61,198 (1978).

[10] Final Rule and Order on Rehearing, Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR 5,152 (Feb. 3, 1983) (Order No. 94–A), *reh. denied*, Order Denying Rehearing and Denying Petitions for Stay of, or Further Comment on, Final Rule, 48 FR 24,039 (May 31, 1983) (Order No. 94–C); Delivery Allowances under Section 110 of the Natural Gas Policy Act of 1978, and Compression Allowances under Section 110 of the Natural Policy Act of 1978, 48 FR 44,495 (Sept. 29, 1983) (Order No. 334); Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy under the Natural Gas Act, Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271 and Affirming Certain Final Regulations Issued in Order No. 68, 48 FR 5,190 (Feb. 3, 1983) (Order No. 94–B), *reh. denied*, Order Denying Rehearing and Denying Stay of Order No. 94–B, 48 FR 24,051 (May 31, 1983) (Order No. 94–D); Regulations Implementing Refund Procedures Under Subpart K of Part 271 for Production-Related Costs, 48 FR 44,492 (Sept. 29, 1983) (Order No. 333). These regulations are codified in 18 CFR 271.1100–271.1106 (1983).

[11] High-Cost Natural Gas; Production Enhancement Procedures, 48 FR 45,097 (Oct. 3, 1983) (Rehearing of Order No. 107).

[12] Regulations Covering High-Cost Natural Gas Produced From Tight Formations, 45 FR 56,034 (Aug. 22, 1980).

[13] The legality of the Commission's authority to grant special relief by individual order, rather than by first promulgating generic standards, cannot be doubted. The relevant sections each state that the "Commission may, by rule *or order*, prescribe a maximum ceiling price * * * higher than the maximum lawful price which would otherwise be applicable * * *" (emphasis added).

Given the administrative burdens attendant to a special relief proceeding, the Commission would prefer that producers find economic relief in NGPA pricing mechanisms other than special relief. Indeed, the Commission is not inclined to grant a special relief rate if there is *any* other NGPA relief available to a producer. NGPA relief would include qualifying as a new well under section 102 or 103, as a tight formation gas well or as production enhancement gas under section 107, as a stripper well under section 108, or receiving production-related costs under section 110.

Towards this end, the Commission requests that producers file with their special relief petition a statement explaining whether there is any other price under the NGPA for which the gas could qualify, including the reasons that the gas does not qualify for any other pricing relief; the statement should also include an explanation of why a special relief rate is necessary and why the current maximum lawful price is inadequate.

The last observation relates to using the special relief program to create incentives to produce additional gas from previously developed reserves. Under the NGA, the Commission developed its optional certificate program to encourage the development of additional supply for the interstate market. To some extent, the special relief program was also used to give producers sufficient revenues to produce additional gas.

The NGPA's pricing structure created more pricing incentives for producers than did the Commission's area and national rate structure. Experience shows that the NGPA has been remarkably successful in creating economic incentives for producers to bring new supplies to market. While the Commission will continue to use special relief as a "safety valve" in those situations where the maximum lawful price under section 104 or 106(a) does not allow a producer to recoup costs, it does not believe that it should use its authority to grant relief similar to that granted under the optional certificate program created by § 2.75 of the NGA regulations.

The Commission will not in this order delineate the precise standards it will use to determine when a special relief rate is necessary; nor will it delineate which costs will or will not be included in a special relief rate. Rather, the Commission will develop those standards in individual special relief cases.

C. Special Relief and Optional Certificate Regulations

Under the NGA, the Commission promulgated four special relief regulations, §§ 2.56a(g), 2.56b(h), 2.76, and 2.77, and one optional certificate regulation, § 2.75. These regulations were all promulgated under the NGA and, more specifically, in the context of the Commission's area or national rate proceedings.

The NGPA dramatically changed this context and thus vitiated much of the need for these regulations. The Commission's current authority for granting a special relief rate is based on the NGPA, sections 104(b)(2), 106(c), and 109(b)(2) of the NGPA. While these sections of the NGPA refer to the Commission's authority to raise the maximum lawful price so long as the new price is "just and reasonable under the Natural Gas Act," the Commission believes that the NGPA significantly changes the context for exercising that authority.

Under the NGA, special relief was a "safety valve" for area or national rates that might otherwise have been confiscatory. As noted above, the pricing structure of the NGPA virtually eliminates this as a justification for special relief. Special relief and optional certificates were also attempts by the Commission to insure adequate supplies in the interstate market. Given current market conditions, it is quite apparent that these programs are not necessary to accomplish these objectives.

For these reasons, the Commission is repealing its special relief regulations. As noted above, the Commission will exercise its NGPA special relief authority on a case-by-case basis without developing generic standards in a rulemaking. The Commission is also amending § 2.75, its optional pricing rule, to make it clear that the Commission will no longer accept applications for optional pricing authority. The Commission is not repealing this rule since gas is currently being sold under certificates issued pursuant to this section prior to the enactment of the NGPA.

IV. Administrative Procedures Act (APA)

The Commission is taking three actions in this order. First, it is terminating three notices of proposed rulemaking. Second, it is repealing the special relief and amending the optional certificate regulations issued under the NGA. Third, it is explaining how it is likely to exercise its NGPA special relief authority in the future.

The Commission does not believe that it is required under section 553 of the APA to allow a further opportunity for comment prior to issuing this order. The action taken by the Commission either falls within a recognized exception to the comment requirement in the APA or is within the scope of the issues raised in the Commission's three proposed rulemakings. For example, an opportunity for comment is not required prior to terminating a notice of proposed rulemaking. Nor is additional comment required on the portion of the Commission's order repealing the special relief and optional certificate regulations issued under the NGA since the repeal of these regulations was specifically raised in the first notice of proposed rulemaking. The observations made by the Commission on how it is inclined to exercise its authority in the future are in the nature of a policy statement, for which comment is not required. Lastly, the requirement that applicants file a statement explaining whether their gas qualifies for any repricing mechanism, other than section 104 or 106, is a procedural rule for which comment is not required.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Natural gas.

18 CFR Part 271

Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission is amending Parts 2 and 271, Title 18, Chapter 1, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—[AMENDED]

§ 2.56a [Amended]

1. Part 2 is amended by removing and reserving paragraph (g) in § 2.56a.

2. In § 2.56b, paragraph (a)(2)(ii) is revised, and paragraph (h) is removed and reserved to read as follows:

§ 2.56b National rate for sales of natural gas from wells commenced prior to January 1, 1973.

(a) * * *

(2)(i) * * *

(ii) The rules and regulations described in paragraph (a)(1) of this section are:

(A) 18 CFR 2.56a;

(B) 18 CFR 2.70(b)(3);

(C) 18 CFR 2.75;

(D) Former 18 CFR 2.76;

(E) Former 18 CFR 2.77;
(F) 18 CFR 157.29; and
(G) 18 CFR 157.40.

* * * * *

(h) [Reserved]

* * * * *

3. Section 2.75 is amended by adding a new paragraph (p), to read as follows:

§ 2.75 Optional procedure for certificating new producer sales of natural gas.

* * * * *

(p) No application can be filed under this section after May 8, 1984.

§§ 2.76 and 2.77 [Removed]

4. Sections 2.76 and 2.77 are removed and reserved.

PART 271—[AMENDED]

5. In § 271.402, paragraph (c)(1) is revised to read as follows:

§ 271.402 Maximum lawful prices.

* * * * *

(c) *Applicable higher rates.* (1) If a just and reasonable rate in effect on April 20, 1977, under former §§ 2.56a(g), 2.56b(h), 2.76, or 2.77 of this chapter was applicable on November 30, 1978, to a first sale of natural gas, then such rate (plus an inflation adjustment from April, 1977, determined in accordance with § 271.102), if higher, shall apply in lieu of the rate determined under paragraph (a) of this section.

* * * * *

[FR Doc. 84-12679 Filed 5-22-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Docket No. RM 79-67-000]

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978; Order Repealing Special Relief Regulations

Issued: May 8, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating 3 notices of proposed rulemaking in Docket No. RM 69-67. These notices proposed a new special relief program which would have established procedures authorizing on a well-by-well basis, increases in maximum lawful prices for gas subject to sections 104, 106, and 109 of the Natural Gas Policy Act of 1978.

EFFECTIVE DATE: The action taken in this order is effective on June 22, 1984.

FOR FURTHER INFORMATION CONTACT: Ken Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission is withdrawing three notices of proposed rulemaking in Docket No. Rm 79-67 (44 FR 49468; August 23, 1979; 45 FR 5312; January 23, 1980; and 45 FR 31744; May 14, 1980). The Commission explains the reasons for taking this action in a companion document published in this issue of the **Federal Register**, and the Commission incorporates that reasoning into this document. Accordingly, the Commission is hereby withdrawing the notices of proposed rulemaking in Docket No. RM 79-67.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13880 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 2 and 271

[Docket No. RM84-8-000]

Petition of Ashland Oil, Inc. et al. for Expedited Establishment of Procedures for the Collection of Excess Royalty Payments; Order Denying Petition for Rulemaking

Issued: May 8, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying petition for rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is denying a petition for rulemaking filed by Ashland Oil Company, Inc., requesting that the Commission issue a rulemaking establishing procedures for granting a special relief rate under sections 104, 106, and 109 of the Natural Gas Policy Act for excess royalty payments. Under an approach discussed in two companion documents published elsewhere in this issue of the **Federal Register**, the Commission will consider whether to allow the recovery of the excess royalties in individual special relief proceedings. It is, therefore, unnecessary to initiate a rulemaking such as that requested by Ashland Oil's petition.

FOR FURTHER INFORMATION CONTACT: Ken Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 8602-A, Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Petition of Ashland Oil, Inc., et al. For expedited establishment of procedures for the collection of excess royalty payments; Docket No. RM84-8-000.

Under sections 104(b)(2), 106(c), and 109(b)(2) of the Natural Gas Policy Act of 1978 (NGPA), the Commission can grant a rate higher than the maximum lawful price if the rate is "just and reasonable under the Natural Gas Act." Ashland Oil Inc., *et al.* recently petitioned the Commission for a rulemaking to establish procedures for granting a special rate under these sections for excess royalty payments. *Petition of Ashland Oil, Inc., Et Al. for Expedited Establishment of Procedures for the Collection of Excess Royalty Payments*, Docket No. RM84-8-000, filed December 20, 1983. *See Matzen* v. *Cities Service Oil Co.*, 233 Kan. 846, 667 P. 2d 337 (1983), petition for cert. filed, 52 U.S.L.W. 3583 (U.S. Jan. 26, 1984) (No. 83-1234) (Held that "market rate" based royalty payments should be based on the highest regulated price, not the applicable ceiling price at which the gas could be sold).

The Commission is issuing two companion documents today. In the first document, the Commission takes two actions relevant to Ashland's petition: it terminates three notices of proposed rulemaking that would have established a special relief program under sections 104, 106, and 109, and it states that the Commission will develop its special relief authoriy on a case-by-case basis. Order terminating Rulemaking and Repealing Special Relief Regulations, Procedures Governing Applications for Special Relief under Sections 104, 106, and 109 of the NGPA, Docket No. RM79-67-000. The second document is a notice requesting that pending special relief applicants, of which Ashland is one, file a statement making certain explanations. Notice of Intent ot Dismiss Pending Special Relief Cases, A.O. Philips Estate, *et al.*, Docket No. RI76-130-000. Ashland will be able to raise its claim for excess royalties payments in its individual application for special relief.

In light of these documents, the Commission believes that it is not necessary to initiate a rulemaking because it will decide whether to allow the recovery of excess royalties in individual special relief applications. Ashland's petition is denied and Docket No. RM84-8-000 is terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-12686 Filed 5-22-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RI76-130-000 et al.]

Intent To Dismiss Pending Special Relief Cases

May 8, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of intent to dismiss special relief cases.

SUMMARY: The Federal Energy Regulatory Commission has pending before it about 50 applications for special relief. The Commission indicated in a companion order that it would exercise its special relief authority under sections 104, 106, and 109 of the NGPA on a case-by-case basis. This notice requests that producers who had pending applications before the Commission file a statement indicating whether they intend to pursue further the applications for a special relief and explaining whether any other repricing option is available under the NGPA and the reasons for believing that a special relief rate is necessary.

ADDRESS: Statements should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

DATES: Statements are required to be filed by July 9, 1984.

FOR FURTHER INFORMATION CONTACT:

Ken Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 8602A, Washington D.C. 20426, (202) 357-8033

Louis Engel, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 6300-I, Washington, D.C. 20426, (202) 357-8667

SUPPLEMENTARY INFORMATION:

A. O. Phillips Estate, *et al.*;[1] Docket No. RI76-130-000, et al.

In a companion order issued today,[2] the Federal Energy Regulatory Commission (Commission) indicated, among other things, that it would implement special relief authority in sections 104(b)(2), 106(c), and 109(b)(2) of the Natural Gas Policy Act of 1978 (NGPA) on a case-by-case basis, rather than by promulgating generic standards and applying these standards to individual applications. This notice delineates a procedure to be followed by producers who have pending before the Commission special relief applications filed under §§ 2.56a, 2.56b, or 2.76 of the Commission's regulations.

Background

The Federal Power Commission (FPC) first considered "special relief" in its area rate proceedings under the Natural Gas Act (NGA). Special relief was to act as a "safety valve" for producers for whom gas sales at the applicable area rates might amount to an unconstitutional taking of private property without due process.[3]

When Congress enacted the NGPA in 1978, it provided a link between the NGA's special relief procedures and the NGPA in sections 104(b)(2), 106(c), and 109(b)(2). These sections each state that—

> The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas * * * otherwise subject to the proceeding provisions of this section, if such price is—
>
> (A) higher than the maximum lawful price which would otherwise be applicable under such provisions; and
>
> (B) just and reasonable within the meaning of the Natural Gas Act.

In implementing its NGPA special relief authority, the Commission issued three notices of proposed rulemaking in Docket No. RM79-67. These rules would have covered pending special relief cases, as well as cases filed in the future. The first notice proposed the full panoply of special relief rules—procedures, application requirements, substantive standards, *etc.* The second notice requested comment on four particularly difficult issues—ceilings on the special relief rate, the relationship between special relief and incentive prices under other NGPA sections (*i.e.*, sections 107 or 108), procedure for review of applications, and the rate of return. The third phase requested comment on new substantive standards for determining the special relief rate. The last notice was issued in May 1980.

Since December 1978, no special relief cases were set for hearing by the Commission. In August 1982, the Commission issued an order in the *Liberty Oil* case approving an uncontested offer of settlement of a petition for special relief.[4] Since *Liberty Oil*, the Commission has approved similar uncontested settlements of special relief cases.[5]

Discussion

In a companion order, the Commision terminated the rulemaking proceeding, repealed the existing special relief regulations in §§ 2.56a, 2.56g, 2.76 and 2.77, and indicated that it would implement its special relief authority on a case-by-case basis. Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the NGPA, Docket No. RM79-67-000. The Commission stated that it believes that special relief authority should be exercised only in limited circumstances because of the NGPA's incentive price structure, various other Commission actions allowing incentive prices, the current state of the natural gas market, and administrative inefficiencies inherent in the special relief concept. To this end, the Commission stated that future special relief petitions should include a statement showing whether any other repricing option is available under the NGPA and the reasons for believing that a special relief rate is necessary.

With regard to these pending special relief cases, producers have sixty (60) days from issuance of this notice to notify the Commission as to whether they want to pursue their application further. If so, the producer must submit a statement similar to that described above, explaining whether there is any other option available under the NGPA for getting a higher price and the reasons supporting the grant of a special relief rate. These pending applications will be deemed dismissed without prejudice if producers do not file this statement within 60 days from issuance of this notice.

By direction of the Commission.

Kenneth F. Plumb,

Secretary

APPENDIX A.—PENDING PETITIONS FOR SPECIAL RELIEF

Docket No.	Company
RI76-130-000	A. O. Phillips Estate.
RI77-10-000	Xetron Minerals, Inc.
RI77-13-000	Mesa Offshore Company.
RI77-22-000	Henry Grace Production Company.
RI77-57-000	Ashland Oil, Inc.
RI77-67-000	Bill J. Graham.
RI77-84-000	Highland Resources, Inc.
RI77-105-000	Texas Well Service, Inc.
RI77-111-000	Pennzoil Company.
RI78-3-000	Earlsboro Oil & Gas Company, Inc.
RI78-17-000	McCulloch Oil and Gas Corporation.
RI78-27-000	Western Oil Producers, Inc.
RI78-30-000	Clark R. Taylor, Operator.
RI78-36-000	Ric-Delta 1973 Ltd. Partnership.

[1] Appendix A lists all pending special relief applications affected by this order.

[2] Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the NGPA, Docket No. Rm79-67-000.

[3] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd sub nom.* Permian Basin Area rate Cases, 390 U.S. 747 (1968).

[4] Liberty Oil and Gas Corp., 20 FERC ¶ 61,136 (1982).

[5] Everett J. Carlson, 20 FERC ¶ 61,450 (1982); J. G. Stone, 23 FERC ¶ 61,086 (1983).

APPENDIX A.—PENDING PETITIONS FOR SPECIAL RELIEF—Continued

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RI78-46-000	McKelvy Oil Company.
RI78-52-000	A. E. Perkins.
RI78-59-000	Gibson Drilling Company.
RI78-61-000	Bass Enterprises Production Company.
RI78-68-000	Neleh Gas & Oil Corporation.
RI78-69-000	Sutton Production Corporation.
RI78-70-000	W. A. Moncrief.
RI78-77-000	Messman Rinehart Corporation.
RI78-86-000	Kamlok, Inc.
RI78-94-000	Adobe Oil & Gas Corporation, Operator.
RI79-5-000	Barth Energy Corporation (TX).
RI79-8-000	C. F. Lawrence & Assoc., Inc.
RI79-9-000	Atlantic Richfield Company.
RI79-15-000	Anadarko Production Company.
RI79-16-000	Pan Eastern Exploration.
RI79-24-000	ABCO Petroleum.
RI79-26-000	Marine Contractors & Supply, Inc.
RI79-32-000	Loque and Patterson, Inc.
RI79-37-000	Ralph L. Leaderbrand.
RI80-2-000	Kentucky Ohio Gas Company.
RI80-3-000	Decalta International Corporation.
RI80-4-000	Decalta International Corporation.
RI80-6-000	Decalta International Corporation.
RI79-29-000	Allied Chemical Corporation.
RI83-7-000	Ashland Oil Inc., *et al.*
RI83-8-000	Mobil Oil Corporation, *et al.*
RI83-8-002	Mobil Oil Corporation, *et al.*
RI83-8-003	Mobil Oil Corporation, *et al.*
RI83-8-004	Mobil Oil Corporation, *et al.*
CI77-372-000	ECEE, Inc.
CI77-373-000	Pinto, Inc.
CI77-409-000	TBP Offshore Co.
CI78-293-000	Marathon Oil Co.
CI78-93-000	Pennzoil Oil & Gas, Inc.

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LIST OF PUBLIC LAWS

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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. 597 / Pub. L. 98-287

To convey certain lands to Show Low, Arizona. (May 21, 1984; 98 Stat. 188) Price: $1.50

S. 1129 / Pub. L. 98-288

Domestic Volunteer Service Act Amendments of 1984. (May 21, 1984; 98 Stat. 189) Price: $2.00.

S. 64 / Pub. L. 98-289

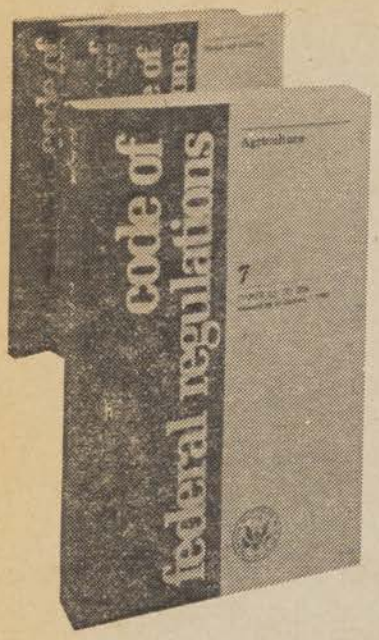
Irish Wilderness Act of 1984. (May 21, 1984; 98 Stat. 199) Price: $1.50.

H.R. 4176 / Pub. L. 98-290

To confirm the boundaries of the Southern Ute Indian Reservation in the State of Colorado and to define jurisdiction within such reservation. (May 21, 1984; 98 Stat. 201) Price: $1.50.

S. 1188 / Pub. L. 98-291

To relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans. (May 21, 1984; 98 Stat. 203) Price: $1.50.



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