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Tuesday
November 20, 1984

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Presidential Documents

Title 3—

The President

Memorandum of November 16, 1984

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(2) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)(2)), I have determined that restrictions imposed by the Government of Argentina through its postal authorities on services provided by U.S. courier companies are unreasonable and a restriction of U.S. commerce for the reasons stated below.

With a view toward elimination of these restrictions, I am directing you to hold another round of consultations as requested by the Government of Argentina. I further instruct you to submit proposals for action under Section 301 within thirty days if the issue is not resolved through consultations.

Statement of Reasons

Based on a petition by the Air Courier Conference of America, the USTR initiated an investigation on November 7, 1983, into complaints that the Government of Argentina through its Postal Administration, ENCOTEL, had imposed restrictions on the delivery of time-sensitive commercial documents, which have essentially prohibited U.S. couriers from the international carriage of such items.

In an effort to resolve the issue, the United States held a series of consultations with the Government of Argentina and ENCOTEL. During the first of these meetings, ENCOTEL claimed that its restriction of courier services was based on the Express Mail Agreement between ENCOTEL and the U.S. Postal Service and their national postal monopoly.

In follow-up discussions, the Argentine representatives agreed with the U.S. point that the Express Mail Agreement did not provide the basis for exclusion of the couriers from the market for delivery of time-sensitive commercial items. It was explained further that, as a matter of U.S. Postal Service policy, air couriers were outside the scope of postal treaties and agreements and that the couriers provided a service different from that provided by the postal services even under Express Mail Agreements.

The Government of Argentina indicated its intent to resolve the matter but no action has been taken to eliminate the restrictions on courier services. However, Argentina has recently requested an additional round of consultations with a view toward resolving the issue.

I have concluded that U.S. interests would best be served by stating unequivocally that the Argentine restrictions are unreasonable and a restriction of U.S. commerce. In deference to the Argentine request, I have instructed the USTR to engage in a final round of consultations. Failing resolution of the issue within thirty days, I will consider other appropriate action under Section 301(a).

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, November 16, 1984

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

Regulations Under the Perishable Agricultural Commodities Act; Addition of Provisions To Effect a Statutory Trust

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking provides amendments to Part 46, of the Regulations (other than Rules of Practice) under the Perishable Agricultural Commodities Act (PACA). The purpose of the amendments is to implement Pub. L. 98–273, approved May 7, 1984, by which Congress amended the PACA to impress a statutory trust on perishable agricultural commodities received by commission merchants, dealers, and brokers for the benefit of suppliers, sellers, or agents who have not been paid. Such commodities and proceeds from their sale are to be held in a floating trust by the receiver so as to be available as a source of payment to any unpaid supplier, seller, or agent until payment of money owed in connection with fruit and vegetable transactions has been made. The regulations describe the transactions to which the trust applies, how the trust will be effectuated and how rights to trust assets are to be perfected and preserved. In addition, current regulations are amended where necessary so as to carry out the purposes of the statutory trust.

EFFECTIVE DATE: December 20, 1984.

FOR FURTHER INFORMATION CONTACT: John D. Flanagan, Assistant Chief, P.A.C.A. Branch, Fruit and Vegetable Division, AMS, Room 2095, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3212.

SUPPLEMENTARY INFORMATION: These actions have been reviewed under Secretary's Memorandum 1512–1 and E.O. 12291 and have been classified as "nonmajor" because they do not meet any of the criteria identified under the Executive Order. These actions will not have an annual effect on the economy of $100 million or more, nor will they result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. These actions 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. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these rules do not have a significant economic impact on a substantial number of small entities. Although there are numerous small entities doing business subject to the Perishable Agricultural Commodities Act, these regulations merely assure suppliers, sellers, or agents that assets will be available from which they will be paid in the event of nonpayment by the buyer or receiver. The regulations do not change a buyer or receiver's liability to a supplier, seller, or agent on its underlying sales contract.

Discussion of Comments

On August 28, 1984, the Department of Agriculture (USDA) proposed regulations that would amend 7 CFR Part 46 of the Perishable Agricultural Commodities Act. The 30-day period for comments on the proposals expired September 27, 1984.

During the comment period, the USDA received 29 letters. Twenty commentors stated that they approved of the legislation and regulations. Several comments were received which asked for clarification and changes in the proposed regulations.

General

One commentor recommended that the term "default" in § 46.46(b)(3) be deleted. One commentor stated that the word "contemplated" in § 46.46(c) was not properly used and that the word "goods" in § 46.46(d)(1) be changed to "perishable agricultural commodity". Another commentor stated that the words "final sale" in § 46.2(aa)(1) should be defined or referenced and the phrase ". . . date of the accounting for the initial shipment . . ." in § 46.2(z)(2) should be defined. The recommendations were not accepted since the terms, words, and phrases are appropriate in their current context, and are applicable to the regulations as drawn. Another commentor thought the term "acceptance" as used in §§ 46.2(z)(2) and 46.2(aa)(1) should be either defined or referenced. The term "acceptance" is already defined in § 46.2(dd) of the current regulations, and is applicable to these provisions.

One commentor observed that it appeared that while the regulations provide that the trust provisions shall be implemented on or after the effective date of the regulations, the legislative history states that the legislation became effective on enactment. The comment addressed only a limited part of the legislative history. In its directive to the Secretary of Agriculture, Congress confirmed that there is a need to follow the rule-making procedure to establish enabling regulations. Thus, the amendments cannot be implemented until the regulations are effective.

One commentor questioned whether accounts receivable sold by a principal to a third party are subject to the trust provision and asked whether a buyer of receivables could file a claim against the trust to collect the receivables. The purchaser of accounts receivable is not a trust beneficiary and buys at its own risk since these trust assets are subject to recall for payment to unpaid produce sellers.

One commentor asked whether a crop lien-holder could file a claim against the trust to collect from a person who has paid a grower for fruits and vegetables as to whose crop the lender holds a lien. Trust benefits accrue only on trading transactions in fruits and vegetables, and assets are set aside to pay obligations incurred only in connection with those transactions.

One commentor asked whether there would be a pro-rata distribution of assets in instances where there were insufficient funds to pay the full amount owed the creditors. Where USDA may become involved, an informal distribution would be made on a pro-rata basis to beneficiaries who have protected their rights to trust benefits.

Where a court is involved, USDA would recommend to the court that the available trust assets be distributed on a pro-rata basis to all beneficiaries who have protected their right to trust benefits.

Once commentor asked if the USDA would make a determination of contract liability in instances where there is a valid dispute over contract performance. A notice to protect rights to trust benefits preserves the right to claim against trust assets. The notice must be filed by a beneficiary within 30 days after the date payment under the terms of the contract became past due. The obligation for timely filing cannot be set aside or extended. Any dispute could be resolved without adversely affecting a claim against trust assets.

One commentor requested clarification as to when payment was due growers from grower's agents in transactions that call for an agent to accept goods for storage and packing and sale to be on a later date. The prompt accounting and prompt payment requirements set forth in §§ 46.2(z)((2) and 46.2(aa)(8)(9) of the regulations require that accounting and payment be made within 30 days after the goods are received for sale. Trust coverage begins when the goods are received by the agent. The agreed upon time for prompt payment between a grower's agent and its customer begins to run when the goods are sold. Section 46.2(z)(2) has been amended to clarify the agent's responsibility for accounting in marketing contracts that include storage of goods prior to sale.

One commentor stated that the word "ownership" was confusing when applied to contracts since it was not clear when time to file a trust notice would begin and should be redrafted. We cannot accept this recommendation. The language of the regulations is clear that the trust comes into effect when the goods are received, but the times for payment under the trust are as set forth in the prompt payment regulations, § 46.2(aa), or as otherwise agreed between the contracting parties.

Section 46.2(z)(2)

One commentor questioned whether the requirement for an initial accounting by a grower's agent and subsequent interim accountings during a crop season could be changed by written agreement. A grower's agent and its principal can agree to times for accounting and payment for goods different than those contained in the prompt accounting and prompt payment regulations. A grower's agent cannot avoid its responsibility to protect its principal's rights to trust benefits by a contractual agreement. However, a principal may elect to waive its rights to trust benefits (§ 46.46(d)(2)).

Sections 46.2(aa)(1) and 46.2(z)(2)

Two commentors objected to the provisions in the regulations that commission merchants must "account promptly" and "make full payment promptly" within 20 days from the date goods are accepted at destination. Both commentors stated that the current regulation calling for payment within ten days after the date of last sale was more workable. The regulations defining prompt accounting and payment were modified so as to insure that trust benefits would be available to the principal. It was necessary that a firm time for payment be established. Without a positive time for prompt accounting and payment, the owner of the goods would lose its right to trust benefits. The recommendation was not accepted. The 20-day period also fulfills the intent of Congress that the Secretary of Agriculture establish a reaasonable time for payment agreements.

Section 46.2(aa)(8)

One commentor suggested that the provision calling for payment by a grower's agent in five days from the date the agent is paid be changed from five calendar days to five working days. This recommendation was not accepted. Current regulations include Sundays and holidays in computing time periods for prompt payment under the Act. No problems have been encountered in the application of this rule. It is the intent of the legislation that monies owed by agents to their principal be paid promptly.

Section 46.46(a)

One commentor indicated the phrase " . . . existing as of . . ." was unclear and should be deleted. This recommendation was not accepted ". . . since existing as of . . ." deals with transactions that are entered into prior to the effective date of the regulations but which still be protected under the trust if a timely notice is filed. It would also cover contracts entered into prior to the effective date of the regulations, but which call for performance at a later date, i.e., futures contracts.

Section 46.46(b)(1)

One commentor expressed concern that it did not appear clear when goods will be considered to have been "received" in cases when there is an invalid rejection. As a result of this comment, § 46.46(b)(1) has been reworded and referenced to present regulations, § 46.2(bb).

One commentor asked whether the word "proffered" in the definition of "received" meant at the time a shipper places a commodity free on board or did it mean when the shipment arrived at destination. Goods could be "proffered" at any time or place in the marketing chain.

Section 46.46(c)

One commentor submitted language which it suggested be added to this section that would provide that a buyer of trust assets would receive them free of any trust interest. This language cannot be accepted since the legislation states that all trust assets shall be available in trust until full payment is made to the sellers. A purchaser of trust assets could only hold a secondary interest since the assets would be subject to recall.

Section 46.46(d)(2)

One commentor questioned whether a broker should be held responsible for preserving its principal's rights under the trust. Brokers whose operations are confined to performing the duties of negotiating sales and purchases on behalf of the vendor or purchaser, with the principal invoicing the buyer, do not have additional trust responsibilities. Brokers who act on behalf of undisclosed principals assume the trust responsibilities of the undisclosed principal and must comply with the trust requirements. Also, brokers that accept responsibility to act as an agent, performing duties including, but not limited to, those of taking billing, receiving goods, invoicing, and collecting monies due the seller have an agent's responsibility under the trust provisions. They must maintain the trust, are responsible for giving timely written notice to a defaulting debtor, and filing timely notices with the Secretary of Agriculture to preserve the principals' rights to trust benefits.

One commentor was concerned that the waiver explanation in this section was worded so as to indicate that only principals to an agency agreement could waive their rights to trust protection, and that there was no provision for waivers under different types of contracts. The regulations establish the makeup of an effective waiver. They are not intended to address contracting parties' rights to execute waivers.

One commentor objected to § 46.46(d)(2) of the regulations as placing undue and obligatory burdens on all commission merchants and said it should be deleted. This recommendation cannot be accepted. The commission merchant is the person who knows

when and to whom the goods were sold. It has the responsibility to protect the principal's rights to trust benefits.

Section 46.46(f)(l)(2)

One commentor stated that terms of payment are arranged at the time a transaction is entered into and not before the transaction is made and that the regulations should be changed to clarify this. This recommendation cannot be accepted. The regulations track the requirements of the legislation and confirm the expressed intent of Congress that parties that elect to use times for payment different from those set out in § 46.46(aa) of the regulations have the obligation to reduce the agreement to writing during the negotiations before entering into the transaction.

One commentor indicated that the majority of shipments were not paid for in 30 days, and that 45 days should be the maximum time for payment to which a seller can agree to and still qualify for coverage under the trust. This recommendation was not accepted since administrative experience and industry sources indicated a 30-day payment is reasonable. The 30-day period also fulfills the intent of Congress that the Secretary of Agriculture establish a reasonable time for payment for credit transactions.

Section 46.46(g)(2)

One commentor observed that the term "given" as set out in § 46.46(g)(2) was not clear as to whether it meant when the notice of trust was mailed by the trust beneficiary or when the debtor receives the notice. The legislators did not address the meaning of the term "given". It is intended that in the absence of a showing to the contrary, the notice has been "given" to the debtor on the same date as a notice to protect rights to trust benefits is filed with Secretary of Agriculture.

Trust Provision

The purpose of the Perishable Agricultural Commodities Act ("PACA" or "the Act"), 7 U.S.C. 449a–499s, is to suppress unfair and fraudulent practices in the marketing of fruits and vegetables in interstate and foreign commerce. The Act provides a code of fair play in the marketplace, and provides aid to traders in enforcing their contracts. In the past few years, three problem areas have become apparent. They reflect changes in the industry's financial picture, and have added an abnormal marketing risk burden against which sellers are unable to protect themselves. Climbing overhead costs, including the cost of debt servicing, are reflected by a marked increase in delayed payments for produce. Also, an increase in hidden security agreements which encumber buyers' assets results in the diversion of money owed for produce away from suppliers. Finally, business failures and bankruptcy losses with no possibility of meaningful recovery have shown a steady increase. These factors combine to prejudice sellers' ability to obtain prompt payment for produce. It is these problem areas that the provisions of Pub. L. 98–273 are intended to overcome.

These amendments to the Perishable Agricultural Commodities Act provide suppliers and sellers of fruits and vegetables, or their agents, a self-help tool that will enable them to protect themselves against the abnormal risk of losses resulting from slow-pay and no-pay practices by buyers or receivers of fruits and vegetables. Pub. L. 98–273 impresses a trust on commodities received, food and other products derived from them, and any receivables or proceeds from their sale for the benefit of all unpaid suppliers, sellers, and agents. When goods are not paid for promptly, suppliers, sellers, or agents must file written notice with the debtor and the Secretary to preserve their right to trust benefits. The district courts of the United States are vested with jurisdiction to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust. Failure to maintain the trust is a violation of Section 2 of the Act, and action can be taken by the Secretary to revoke or suspend the license of a violator. The regulations clarify and add to present rules in order to establish, where needed, times for prompt payment so as to qualify the transactions for trust benefits. The regulations also set forth the maximum time within which suppliers, sellers, and agents may agree payment is due, and still be covered by the trust provision. They also define the responsibilities of agents to protect the rights of their principals.

Explanation of the Regulations

The regulations define the rights and obligations of sellers, buyers, and third parties with respect to the trust. The following section-by-section analysis sets forth the reasons for the regulations, and their anticipated application to the business of buying and selling perishable agricultural commodities.

Section 46.46(a) provides that all transactions in perishable agricultural commodities existing as of and entered into on or after the effective date of the regulations will be subject to the trust requirements of § 46.46. The regulations fulfill the Congressional intent as to the application of the statutory trust provisions.

The legislation includes the terms "received", "dissipation", and "calendar days" without providing a full definition. These terms are essential to the administration of the trust provisions, but they are not currently defined in the regulations. Definitions are included in the regulations as § 46.46(b). The regulations also define the term "default" in § 46.46(b)(3).

Section 5(c)(2) of the legislation impresses a trust on perishable agricultural commodities *received* by a commission merchant, dealer, or broker in all transactions, and on all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products for the benefit of all unpaid sellers, suppliers, and agents until full payment is made of the sums owing in connection with such transactions. As used in section 5(c)(2) of Pub. L. 98–273, "received" means the time when the buyer, receiver, or agent gains ownership of, control over, or possession of the perishable agricultural commodities. This definition is contained in § 46.46(b). It also provides for situations in which there has been a rejection of goods without reasonable cause. This definition relates specifically to the time the trust becomes effective.

The term "dissipation" can be summarized as an act or failure to act which could prejudice trust assets or the ability of the unpaid supplier, seller, or agent to obtain payment due.

The definition clarifies the circumstances or actions that constitute "dissipation", and which could trigger action by the Secretary when he initiates action in the district courts of the United States to obtain a restraining order or other injunctive relief against such dissipation of trust assets. This definition is contained in § 46.46(b)(2) of the regulations.

The legislation establishes that a beneficiary must act to preserve its rights to trust benefits by filing a written notice with the debtor and the Secretary within 30 calendar days after a default in payment by a buyer or receiver in connection with the purchase or receipt of perishable agricultural commodities. The regulations make it clear that a default occurs when a buyer or receiver of perishable agricultural commodities fails to pay for them within the appropriate time period for the type of transaction involved, as provided in

§ 46.2(aa) of the regulations, or as otherwise agreed upon by the parties. A default also occurs when a party first learns that a payment instrument which it has received has been dishonored. This definition is contained in § 46.46(b)(3) of the regulations.

Defining "calendar days" as used in section 5(c)(2) of the legislation establishes the means of protecting trust beneficiaries' ability to file a timely notice to preserve their trust benefits when the thirtieth calendar day falls on a Saturday, Sunday, or holiday. This definition is found in § 46.46(b)(4) of the regulations.

The legislation provides that the perishable agricultural commodities received in all transactions and all inventories of food or other products derived from the commodities, and all receivables or proceeds from the sale of such commodities shall comprise the trust. Section 46.46(c) of the regulations clarifies the intent of Congress that the trust is to be a nonsegregated "floating" trust, and that commingling of trust assets is permitted. There is no necessity to specifically identify all of the trust assets through the entire accrual and disposal process other than as required under current regulations. When claiming under the trust it is the responsibility of the claimant against the trust to establish, through business records, the details of the transaction for which payment is sought.

Trust assets are available for other uses by the buyer or receiver. For example, trust assets may be used to pay other creditors. It is the buyer's or receiver's responsibility as trustee to insure that it has sufficient assets to assure prompt payment for produce and that any beneficiary under the trust will receive full payment, including sufficient assets to cover the value of disputed shipments.

While the regulations do not prohibit a buyer or receiver from granting a secured interest in trust assets, they make it clear that the secured interest is secondary and specifically voidable in order to satisfy debts to unpaid suppliers, sellers, or agents in perishable agricultural commodity transactions. Similarly, claims of non-secured creditors are subordinate to the priority trust claims of supplier-creditors.

If a buyer or receiver declares bankruptcy, makes an assignment for the benefit of creditors, declares its intention to sell under the bulk sales law, or otherwise terminates its business, trust assets are not to be considered part of the estate to be distributed to other creditors or sold unless all trust beneficiaries have been paid. This follows the precedent of the similar statutory trust imposed on certain assets of meat packers, after which the statutory trust provision of the PACA has been patterned.

Since all types of transactions in perishable agricultural commodities are subject to trust benefits, responsibilities accrue to each supplier, seller, agent, receiver, and buyer in the marketing chain. Section 46.46(d)(1) provides that a supplier, seller or agent who has met the eligibility requirements of § 46.46(f)(1) and (2) is automatically eligible to participate in the trust upon the transfer of ownership, possession, or control of the commodities to the buyer or receiver. Such supplier, seller or agent must act to preserve its right to participate by filing a notice of its intent in accordance with § 46.46(g), which is discussed below.

Section 46.46(d)(2) deals with situations in which a commission merchant, dealer or broker acts as an agent for a seller or supplier. The provision makes clear that such an agent must negotiate a contract on behalf of its principal which qualifies for trust protection unless the principal previously waived its right to participate in the trust. The requirements for an effective waiver are set forth in this section. The agent also has the duty to file timely notices to preserve trust benefits with the buyer or receiver and the Secretary as provided in § 46.46(g). It cannot avoid this duty by a contract provision.

When an agent gains ownership, possession or control of commodities, it is subject to the trust requirements. In other instances, the principal will have recourse against an agent because the agent has agreed to receive payment for the goods.

Section 46.46(e) requires that trust assets must be freely available to satisfy transactions in fruits and vegetables and flags dissipation as a violation of Section 2 of the Act. This carries out the intent of Congress in amending the Act. It is incumbent upon buyers or receivers to insure that trust assets are available to pay suppliers, sellers, or agents. Dissipation of the trust assets and other actions which breach this duty of trust maintenance would be sanctionable. In addition, it is incumbent upon a seller's agent to protect its principal's rights to trust protection. The agent's responsibilities are set forth in §§ 46.46(d) and 46.2 (z) and (aa), and are discussed elsewhere in this document. The regulations impose strict duties on all sellers' agents because they have the potential to prejudice a seller's rights and thus defeat the purposes of the amendment. For example, under these regulations an agent who failed to preserve its principal's rights by not filing the timely notices as required would be considered to have failed to perform a duty in violation of Section 2 of the Act.

The legislation provides that in order to preserve its benefits, a supplier, seller, or agent must file its written notice of intent to preserve its rights to trust benefits with the debtor and the Secretary within 30 calendar days after a debtor's default in payment. The legislation also sets forth requirements for the preparation and preservation of records of written agreements which vary the time for payment from the times prescribed in the regulations. Section 46.46(f)(1) carries out the expressed intent of Congress. It provides that if the sales contract is silent as to the time for payment, the times specified in § 46.2(aa) of the regulations apply to the transaction and that the transaction is subject to trust protection. If they agree to a payment period different from those established in § 46.2(aa), the parties have the responsibility to reduce the agreement to writing during the negotiations before entering into the transaction. A copy must be maintained in each party's records, and the times for payment must be disclosed on invoices, accountings and other documents relating to the transaction.

Congress directed the Secretary to establish the maximum time by which the parties to a transaction can agree payment must be made and still qualify for coverage under the trust. An agreement for payment after such time will not qualify for trust coverage.

Current payment practices, as reflected by administrative experience and industry sources, indicate that contracts calling for payment within 30 days from receipt and acceptance of the goods should qualify for trust coverage, and that contracts that call for later payment should not qualify for trust coverage. Therefore, as set forth in § 46.46(f)(2), if an agreement calls for payment 31 days or more after receipt and acceptance of the goods, the trust provisions will not apply to that transaction.

So long as the seller or supplier could establish the terms of the transaction, meet the requirements of § 46.46 (f) and (g), and meet all other requirements of the regulations, its right to trust benefits would be preserved. Thus, the failure of a receiver to maintain proper records would not defeat the trust. These amendments preserve the statutory protection which Congress intended to be available for unpaid sellers or suppliers who did all that was necessary to perfect their rights.

The legislation provides that the trust provision shall not apply to transactions between a cooperative association (as defined in the Agricultural Marketing Act, 12 U.S.C. 1141j(a)), and its members. Section 46.46(f)(3) which reflects this determination is included in the regulations.

Many contracts between agents and their principals involve advances of funds by the agent for seed, equipment, or payment of contemplated expenses. Section 46.46(f)(4) of the regulations makes it clear that money advances or allowable expenses paid are not a part of the trust, and that the amount claimable by the supplier, seller or grower is the net amount due after allowable deductions for advances and all allowable expenses paid by the agent.

The legislation is clear that an absolute precondition to pursuing trust assets held by a defaulting buyer or receiver is the filing of a written notice by the seller, supplier or agent after a failure to pay within the prescribed time periods has elapsed. The prescribed time periods are set forth in § 46.46(g)(1), and track the legislative directive that the filing of a notice of intent to preserve the benefits of the trust must be made. These time frames have previously been explained in the discussion of § 46.46(f)(1), above.

Section 46.46(g)(2) provides that timely filing of the notice of intent to preserve trust benefits will be accomplished if written notice is given to the debtor and filed with the Secretary within 30 calendar days after default, as provided in Subsection (g)(1). Filing with the Secretary is actual receipt by the P.A.C.A. Branch headquarters office in Washington, D.C., or one of its regional offices. Timely notice will enable the Secretary to take prompt action when necessary to prevent dissipation of trust assets. The contents of the notice as proposed in § 46.46(g)(3) insures that sufficient information is available to indicate that the transaction is entitled to trust protection under the regulations, and to establish the identity of the transaction to facilitate further action which may be necessary on eligible transactions.

Conforming Changes

As a result of the amendment establishing a trust for the benefit of produce creditors, and the contents of the regulations to effectuate the trust fund provisions, it is necessary to revise the prompt accounting and prompt payment provisions for certain types of contracts to insure that the transactions covered by those provisions will be eligible for trust coverage. These changes will not change the current administration of the program in significant ways, but rather will tend to make the trust fund provisions and other provisions of the Act operate in a uniformly consistent manner. The changes deal with the definitions of "account promptly" contained in § 46.2(z) and "full payment promptly" contained in § 46.2(aa).

Section 46.2(z) deals with prompt accounting requirements pertaining to consignment and joint account and grower's agent transactions. The current provision provides for accountings within time frames that are measured from the date of final sale, the receipt of payment for the goods, or in the case of certain grower's agent agreements at reasonable intervals during the season and within a reasonable time following the close of transactions for a season. The revision requires that appropriate accounting be made within time frames geared not only to dates of final sale and receipt of payment, but also to the date goods are received by the agent and received and accepted at destination, and in all cases requires such accounting to be made within 30 days or less from the date of receipt of the goods by the agent for sale. Also, this revision clarifies that agents are responsible for accounting in marketing contracts that include storage of goods prior to sale.

Section 46.2(aa)(1) currently provides that full payment promptly with respect to consignment or joint account transactions means payment within 10 days after the date of final sale with respect to each shipment. The revision requires that payment be made within that time frame, or within 20 days from the date the goods are accepted at destination, whichever comes first.

Section 46.2(aa)(8) currently provides that a grower's agent or shipper who delivers individual lots of produce for or on behalf of others must make full payment within five days after receipt of payment from the purchaser or receipt of the net proceeds with respect to consignment or joint account transactions. The revision establishes definite maximum times for payment so as to insure trust applicability.

Section 46.2(aa)(9) currently provides in part that partial payments are to be made at reasonable intervals during a shipping season by a grower's agent or shipper who harvests, packs or distributes entire crops or multiple lots for or on behalf of others, and final payment is to be made within a reasonable time after the last transaction in a season. The revision establishes definite maximum times for payment so as to insure trust applicability.

Section 46.2(aa)(10) establishes a time for prompt payment for contracts based on terms not described elsewhere in the regulations. It requires payment within 20 days from the date of acceptance of a shipment as provided for in the contract, and as the term "acceptance" is defined in § 46.2(dd).

Section 46.2(aa)(9) currently provides that parties to a contract may enter an express agreement at the time a contract is made to provide a different time for payment than that prescribed in the regulations for the type of contract involved. This provision is being removed from § 46.2(aa)(9) and renumbered § 46.2(aa)(11), and include the requirement that the terms of any agreement to vary the times for payment prescribed in subparagraphs (1) through (10) be reduced to writing before entering the transaction so as to assure conformity with the provisions of the trust.

Finally, the last sentence of § 46.2(aa) is revised to delete the provision that payment in connection with transactions or situations not covered by the rest of the subsection must be made in a reasonable time.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Commodities exchanges, Penalties.

PART 46—[AMENDED]

Accordingly, 7 CFR Part 46 is amended as follows:

Section 46.2 is amended by revising paragraphs (z)(2), (aa)(1), (aa)(8), (aa)(9), and the last sentence of the flush paragraph at the end of (aa), and by adding paragraphs (aa)(10) and (aa)(11) to read as follows:

§ 46.2 Definitions.

* * * * *

(z) * * *

* * * * *

(2) In connection with consignment or joint account transactions, within 10 days after the date of final sale with respect to each shipment, or within 20 days from the date the goods are accepted at destination, whichever comes first: *Provided*, That whenever a grower's agent or shipper distributes individual lots of produce for or on behalf of others, accounting to the principal shall be made within 30 days after receipt of the shipment from the principal for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first. Whenever a grower's agent or shipper

harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others, an accounting on the initial shipment shall be rendered within 30 days after receipt of the goods for sale. Accountings for subsequent shipments shall be made at 10-day intervals from the date of the accounting for the initial shipment and a final accounting for the season shall be made to each principal within 30 days from the date the agent receives the last shipment for the season from that principal: *Provided further,* That whenever the marketing agreement between a principal and agent includes a provision for storage of goods prior to sale, the agent shall render accountings of inventory and expenses incurred to date at 30-day intervals from the date the goods are received by the agent until sales from storage begin, and *Provided further,* That nothing in the regulations in this part shall prohibit cooperative associations from accounting to their members on the basis of seasonal pools or other arrangements provided by their regulations or bylaws; and

* * * * *

(aa) * * *

(1) Payment of net proceeds for produce received on consignment or the pro-rata share of the net profits for produce received on joint account, within 10 days after the date of final sale with respect to each shipment, or within 20 days from the date the goods are accepted at destination, whichever comes first.

* * * * *

(8) Payment by growers agents or shippers who distribute individual lots of produce for or on behalf of others, within 30 days after receipt of the goods from the principal for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first.

(9) Whenever a grower's agent or shipper harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others, payment for the initial shipment shall be made within 30 days after receipt of the goods for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first. Payment for subsequent shipments shall be made at 10-day intervals from the date of the accounting for the initial shipment or within 5 days after the date the agent receives payment for the goods, whichever comes first, and final payment for the seasons shall be made to each principal within 30 days from the date the agent receives the last shipment for the season from that principal.

(10) When contracts are based on terms other than those described in these regulations, payment is due the supplier-seller within 20 days from the date of acceptance of the shipment under the terms of the contract and § 46.2(dd).

(11) Parties who elect to use different times of payment than those set forth in paragraphs (aa) (1) through (10) of this section must reduce their agreement to writing before entering into the transaction and maintain a copy of the agreement in their records. If they have so agreed, then payment within the agreed upon time shall constitute "full payment promptly", *Provided,* That the party claiming the existence of such an agreement for time of payment shall have the burden of proving it.

* * *If there is a dispute concerning a transaction, the foregoing time periods for prompt payment apply only to payment of the undisputed amount.

3. Section 46.46 is added to read as follows:

§ 46.46 Statutory trust.

(a) *Scope.* The requirements of this section cover all transactions existing as of and entered into on or after the effective date of these regulations which have been issued pursuant to Pub. L. 98–273.

(b) *Definitions.* (1) "Received" means the time when the buyer, receiver, or agent gains ownership, control, or possession of the perishable agricultural commodities: *Provided,* That when perishable agricultural commodities have not been received as described above, and where there is a rejection without reasonable cause as provided in § 46.2(bb) and (cc), the goods will be considered to have been received when proffered.

(2) "Dissipation" means any act or failure to act which could result in the diversion of trust assets or which could prejudice or impair the ability of unpaid suppliers, sellers, or agents to recover money owed in connection with produce transactions.

(3) "Default" means the failure to pay promptly money owed in connection with transactions in perishable agricultural commodities; *i.e.,* within the period of time applicable to the type of transaction as established by the provisions of the regulations (§ 46.2(aa)), or as otherwise agreed upon by the parties.

(4) "Calendar days" as used in Section 5(c) 3 of the Act means every day of the week, including Saturdays, Sundays, and holidays, except that if the thirtieth calendar day falls on a Saturday, Sunday, or holiday, the final day with respect to the time for filing a written notice of intent to preserve the benefit of the trust shall be the next day upon which there is postal delivery service.

(c) *Trust Assets.* The trust is made up of perishable agricultural commodities received in all transactions, all inventories of food or other products derived from such perishable agricultural commodities, and all receivables or proceeds from the sale of such commodities and food or products derived therefrom. Trust assets are to be preserved as a nonsegregated "floating" trust. Commingling of trust assets is contemplated.

(d) *Trust Benefits.* (1) When a seller, supplier or agent who has met the eligibility requirements of paragraphs (f) (1) and (2) of this section transfers ownership, possession, or control of goods to a commission merchant, dealer, or broker, it automatically becomes eligible to participate in the trust. Participants who preserve their rights to benefits in accordance with paragraph (g) of this section remain beneficiaries until they are paid in full.

(2) Commission merchants, dealers, and brokers acting on behalf of others have the duty to preserve their principals' rights to trust benefits by filing timely written notice with their customers and with the Secretary in accordance with paragraph (g) of this section. The responsibility for filing the notice to protect the principals' rights is obligatory and cannot be avoided by the agent or receiver by means of a contract provision. Persons acting as agents also have the responsibility to negotiate contracts which entitle their principals to the protection of the trust provisions: *Provided,* That a principal may elect to waive its right to trust protection. To be effective, the waiver must be in writing and separate and distinct from any agency contract, must be signed by the principal prior to the time affected trading contracts are negotiated, must clearly state the principal's intent to waive its right to become a trust beneficiary on a given transaction, or a series of transactions, and must include the date the agent's authority to act on its behalf expires. In the event an agent fails to perform the duty of protecting its principal's rights to trust benefits, it may be held liable to the principal for damages. The principal must preserve its rights to trust benefits by filing appropriate notices with the agent and/or the buyer and the Secretary in accordance with paragraph (g) of this section.

(e) *Trust Maintenance.* (1) Commission merchants, dealers and brokers are required to maintain trust

assets in a manner that such assets are freely available to satisfy outstanding obligations to sellers of perishable agricultural commodities. Any act or omission which is inconsistent with this responsibility, including dissipation of trust assets, is unlawful and in violation of Section 2 of the Act, (7 U.S.C. 499b).

(2) Agents who sell perishable agricultural commodities on behalf of a principal are required to preserve the principal's rights as a trust beneficiary as set forth in § 46.2(z), (aa) and paragraphs (d), (f), and (g) of this section. Any act or omission which is inconsistent with this responsibility, including failure to give timely notice of intent to preserve trust benefits, is unlawful and in violation of Section 2 of the Act, (7 U.S.C. 499b).

(f) *Prompt Payment and Eligibility for Trust Benefits.* (1) The times for prompt accounting and prompt payment are set out in § 46.2(z) and (aa). Parties who elect to use different times for payment must reduce their agreement to writing before entering into the transaction and maintain a copy of their agreement in their records, and the times of payment must be disclosed on invoices, accountings, and other documents relating to the transaction.

(2) The maximum time for payment for a shipment to which a seller, supplier, or agent can agree and still qualify for coverage under the trust is 30 days after receipt and acceptance of the commodities as defined in § 46.2(dd) and paragraph (b)(1) of this section.

(3) The trust provisions do not apply to transactions between a cooperative association (as defined in Section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.

(4) The amount claimable against the trust by a beneficiary or grower will be the net amount due after allowable deductions of contemplated expenses or advances made in connection with the transaction by the commission merchant, dealer, or broker.

(g) *Filing Notice of Intent to Preserve Trust Benefits.* (1) Notice of intent to preserve benefits under the trust must be in writing, given to the debtor, and filed with the Secretary within 30 calendar days:

(i) After expiration of the time prescribed by which payment must be made pursuant to regulation,

(ii) After expiration of such other time by which payment must be made as the parties have expressly agreed to in writing before entering into the transaction, but not longer than the time prescribed in paragraph (f)(2) of this section, or

(iii) After the time the supplier, seller or agent has received notice that a payment instrument promptly presented for payment has been dishonored.

Failures to pay within the time periods set forth in paragraphs (g)(1)(i) and (ii) of this section constitute defaults.

(2) Timely filing of a notice of intent to preserve trust benefits by a trust beneficiary will be considered to have been made if written notice is given to the debtor and filed with the Secretary by delivery at the headquarters office or a regional office of the P.A.C.A. Branch of the Fruit and Vegetable Division, Agricultural Marketing Service, within 30 calendar days after default as described above in paragraph (b)(3) of this section.

(3) An appropriate notice of intent to preserve trust benefits must be in writing, must include the statement that it is a notice of intent to preserve trust benefits, and must include information which establishes for each shipment:

(i) The name and addresses of the trust beneficiary, seller-supplier, commission merchant, or agent and the debtor, as applicable,

(ii) The date of the transaction, commodity, contract terms, invoice, price, and the date payment was due,

(iii) The date of receipt of notice that a payment instrument has been dishonored (if appropriate),

(iv) The amount past due and unpaid.

(Approved by the Office of Management and Budget under control number 0581–0031)

(Sec. 1, 46 Stat. 531, as amended; 7 U.S.C. 499a *et seq.*)

The reporting and/or record-keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Paper Work Reduction Act of 1980 (44 U.S.C. Chap. 35). OMB No. 0581–0031, Expiration Date 08/31/86.

Done at Washington, D.C. this 15th day of November, 1984.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 84–30462 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84–111]

Lethal Avian Influenza; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of areas quarantined in Pennsylvania under the Lethal Avian Influenza interim rule by deleting from quarantined area status one premises in Lebanon County. The interim rule imposes prohibitions and restrictions on the interstate movement from quarantined areas of live poultry, poultry eggs, and certain other items. However, it is no longer necessary for such purpose to include as a quarantined area the premises deleted from quarantined area status.

DATES: Effective date is November 14, 1984. Written comments must be received on or before January 20, 1985.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. H.A. McDaniel, Chief Staff Officer, Technical Support Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8087.

SUPPLEMENTARY INFORMATION:

Background

This document amends the "Lethal Avian Influenza" interim rule which is set forth in 9 CFR Part 81. Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania. Among other things, the interim rule designates several premises in Pennsylvania as quarantined areas and prohibits or restricts certain interstate movements from these quarantined areas of live poultry, poultry eggs, and certain other items because of lethal avian influenza.

Prior to the effective date of this document, four premises in Pennsylvania were designated as quarantined areas. This document deletes the following premises in Lebanon County from the list of quarantined areas (This premises in Lebanon County was incorrectly listed in the interim rule as being located in Lancaster County.):

The premises of Harold Dice, RD #1, Box 125, Fredricksburg, PA 17026, located in Bethel Township approximately 5½ miles east of Fredricksburg on Legionaire Road (T 510).

The poultry on this premises have been depopulated and the premises has been cleaned and disinfected. Sufficient

time has now elapsed to ensure that this premises is free of lethal avian influenza virus. Under these circumstances there is no longer a basis for imposing prohibitions or restrictions because of lethal avian influenza on the interstate movement of live poultry or other items from this premises.

With this change the quarantined areas in Pennsylvania consist of two premises in Berks County and one premises in Lancaster County. The revised list of quarantined areas is set forth in the rule portion of this document.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary prohibitions and restrictions on the movement of live poultry and certain other items from the premises in Lebanon County released from quarantined area status.

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

Executive Order and Regulatory Flexibility Act

This action has been received in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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.

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

The portion of the poultry industry affected by this document represents less than one percent of the poultry industry in the United States.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Accordingly, § 81.4 of 9 CFR Part 81 is revised to read as follows:

§ 81.4 Quarantined areas.

Pennsylvania.—(a) Berks County. (1) The premises of Fred Wright, RD #1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles south of Bethel on Bordner Road.

(2) The premises of Fred Wright, RD #1, Box 100, Richland, PA 17087, located in Bethel Township approximately 2½ miles northwest of Bethel on Schubert Road.

(b) *Lancaster County.* The premises of David Sauder, RD #1 Box 192, East Earl, PA 17519, located in East Earl Township approximately 9/10 of a mile west of Terre Hill on Centerville Road.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2-3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 14th day of November, 1984.

B.G. Johnson

Acting Deputy Administrator, Veterinary Services

[FR Doc 84-30450 Filed 11-19-84 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 105

[Rev. 2, Amdt. 5]

Standards of Conduct

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: On August 7, 1984, the internal organization of the Agency Office of General Counsel was returned to an earlier organization in which the advisory functions of the office were divided into two offices, the Office of Financial Law and the Office of General Law. As part of this reorganization, the responsibilities of the Agency Standards of Conduct Counselor and the Agency Ethics Officer were transferred from the Associate General Counsel for General Law to the Associate General Counsel for Financial Law. The purpose of this amendment is to reflect this transfer of duties in the regulations.

EFFECTIVE DATE: August 7, 1984.

FOR FURTHER INFORMATION CONTACT: Michael F. Kinkead, Attorney, Small Business Administration, Room 722, 1441 L Street, NW., Washington, D.C. 20416. (202) 653–6381.

SUPPLEMENTARY INFORMATION: SBA is publishing this rule change in final form since it relates only to Agency management and is, therefore, exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and Executive Order 12291.

List of Subjects in 13 CFR Part 105

Conflict of interests.

PART 105—[AMENDED]

Accordingly, pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 634(b)(6)), SBA is amending Part 105, Chapter I, Title 13 of the Code of Federal Regulations by revising §§ 105.802(a) and 105.803(a) to read as follows:

§ 105.802 Standards of Conduct Counselors.

(a) The SBA Standards of Conduct Counselor shall be the Associate General Counsel for Financial Law. He shall be assisted by a Regional Standards of Conduct Counselor for each SBA Region. The Regional Counsel shall be the Regional Standards of Conduct Counselor for each Region.

* * * * *

§ 105.803 Designated Agency Ethics Officials.

(a) The Designated Agency Ethics Official, appointed by the Administrator pursuant to the Ethics in Government Act of 1978, shall be the Associate General Counsel for Financial Law. He may, in turn, appoint an Alternate Designated Agency Ethics Official, who will be an attorney in the Office of Financial Law. The Alternate Official will assist the designated Agency Ethics Official and shall act for him, in his

absence, in the performance of his official functions.

* * * * *

James C. Sanders,

Administrator.

[FR Doc. 84-30439 Filed 11-19-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-85-AD; Amdt. 39-4951]

Airworthiness Directives; Boeing Models 727-200, 727-200F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 727 series airplanes which requires inspection and repair, if necessary, of the elevator rear spar. This action is prompted by several recent reports of numerous cracks in the rear spar flange radii at the elevator tab hinge points. Failure to detect cracks in this area increases the susceptibility of the airplane to tab flutter which could lead to loss of the airplane.

DATE: Effective November 20, 1984.

ADDRESSES: The service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, telephone (206) 431-2927. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There have been five reported cases of cracked elevator rear spars on Boeing Model 727 Series airplanes. The spars have contained numerous cracks. In one case it was also reported that an elevator tab hinge was loose. The cracks have occurred in the upper and lower flange bend radii of the spar at the tab hinge brackets. In two instances, three cracks were reported at three of five hinge brackets. It is believed that the cracks are fatigue-related and are initiated by interference between the spar flange bend radii and the sharp edges on shear plates mounted between the spar and the elevator tab hinges. This interference is a result of a design change incorporated in Model 727 airplanes, line number 1720 and subsequent. Cracks in the spar web tend to transfer loads to the hinge brackets and accelerate the loosening of the bracket attachment. Loose hinge brackets and cracks in the spar web will reduce the rigidity of the elevator tab mounting structure. This condition will increase the susceptibility of the airplane to tab flutter, which could lead to failure of empennage components and subsequent loss of the airplane.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued to require inspection and repair, if necessary, of the elevator rear spar on Boeing Model 727 series airplanes from line number 1720 and subsequent.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

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

Boeing: Applies to Boeing Model 727-200 series and 727-200F series airplanes certificated in all categories, listed in Boeing Service Bulletin No. 727-55-0085, Original Issue, dated August 13, 1984. Compliance is required as indicated unless already accomplished.

To detect cracks in the elevator rear spar, accomplish the following:

A. Within the next 300 hours time in service after the effective date of this AD or prior to accumulating 8000 hours total time in service whichever occurs later, inspect the elevator rear spar for cracks in accordance with Boeing Service Bulletin No. 727-55-0085, Original Issue or later FAA approved revisions. Repeat the inspections at intervals not to exceed 1600 hours time in service.

B. Repair cracked structure before further flight in accordance with Boeing Service Bulletin No. 727-55-0085, Original Issue or later FAA approved revisions. Repaired but unmodified structure must be inspected prior to accumulating 8000 hours time in service after repair and thereafter at intervals not to exceed 1600 hours time in service. Cracks within the limits specified in the service bulletin may be stop drilled as an interim repair. All stop drilled cracks must be reinspected 1600 hours after stop drilling and must have the repair specified in the service bulletin accomplished within 3200 hours after stop drilling.

C. Modification in accordance with Boeing Service Bulletin No. 727-55-0085, Original Issue or later FAA approved revisions, eliminates the need for the repetitive inspections required by paragraphs A. and B., above, and constitutes terminating action for this AD.

D. Inspections accomplished in accordance with Boeing Service Bulletin No. 727-55-0085 prior to the effective date of this AD, satisfy the initial inspection requirements of paragraph A. of this AD.

E. On request by an operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times in this AD, if the request contains substantiating data to justify the increase for that operator.

F. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

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

All persons affected by this directive who have not already received the appropriate service bulletins from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents also may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 20, 1984.

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

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

Issued in Seattle, Washington, on October 31, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-30333 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-37-AD; Amdt. 39-4949]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which supersedes an existing AD, to require repetitive inspections of the horizontal stabilizer center section rear spar attach lugs on certain Boeing 737 series airplanes. The existing AD requires a one-time visual inspection; however, a subsequent reassessment by the manufacturer has shown the need for repetitive inspections. Failure to detect cracks in the horizontal stabilizer center section near spar attach lugs may result in separation of the horizontal stabilizer from the airplane.

DATE: Effective December 15, 1984.

ADDRESSES: The referenced service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: An amendment to Part 39 of the Federal Aviation Regulations to include an AD (81-11-07) requiring a one-time visual inspection of the horizontal stabilizer center section spar attach lugs on certain Boeing 737 series airplanes was published in the **Federal Register** on May 26, 1981 (46 FR 28147). A subsequent structural reassessment by the manufacturer revealed the need for repetitive inspections. These additional inspections were specified in a manufacturer's Service Bulletin 737-55A1029, Revision 3, dated February 3, 1983. A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring repetitive inspections of the horizontal stabilizer rear spar attach lugs on certain Boeing 737 series airplanes was published in the **Federal Register** on June 22, 1984 (49 FR 25638). The comment period closed on August 7, 1984.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

There were a total of five responses to the proposed amendment as published, four of which contained no objections. One commenter recommended that the initial inspection be accomplished within 500 landings rather than the proposed 200 landings. The significance of the problem was the primary consideration in the determination of the initial inspection time. Recognizing the fact that loss of the airplane will result if the horizontal stabilizer is lost, and that these lugs are the only structural members holding the stabilizer on the airplane, the importance of the lugs becomes apparent. It is not unreasonable to require that they be inspected within a short period of time. Accordingly, the proposal is adopted without change.

It is estimated that 200 airplanes of U.S. registry will be affected by this AD. Approximately 4 manhours will be required per airplane to perform the inspection. Based on an average labor cost of $40 per manhour, the total cost to the U.S. fleet for accomplishment of the proposed inspection will be $32,000. Therefore, the rule is not considered a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive.

Boeing: Applies to Boeing Model 737 series airplanes, certificated in all categories, listed in Boeing Service Bulletin 737-55A1029, Revision 3. To ensure continued structural integrity of the horizontal stabilizer, accomplish the following, unless previously accomplished:

A. Inspect the rear spar horizontal stabilizer attach lugs for cracks in accordance with instructions in Boeing Service Bulletin 737-55A1029, Revision 3, or later FAA approved revision, upon the accumulation of the threshold number of landings specified in Table I of the service bulletin or within 200 landings after the effective date of this AD, whichever occurs later. Repeat these inspections at intervals not exceeding those specified in Table I of the service bulletin.

B. Cracked parts must be replaced or repaired in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region before further flight.

C. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197 and 21.199 with prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

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

F. Upon request by the operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection interval in this AD, if the request contains substantiating date to justify the increase for the operator.

This supersedes Amendment No. 39-4122 (46 FR 28147; May 26, 1981), AD 81-11-07.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 15, 1984.

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

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 737 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on October 31, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-30335 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ANE-18; Amdt. 39-4946]

Airworthiness Directives; Dowty Rotol Limited Type R.209/4-40-4.5/2 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends existing airworthiness directive (AD) 78-16-02 which requires repetitive inspections for cracks in the propeller hub (arms) on the Dowty Rotol Type R.209/4-40-4.5/2 propellers. The amendment is needed because a new strengthened hub has been made available as an alternative and the use of this hub eliminates the need for the repetitive inspection.

DATE: Effective November 15, 1984.

FOR FURTHER INFORMATION CONTACT: Martin Buchman, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7079.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3272, AD 78-16-02, which currently requires repetitive inspections for cracks in the propeller hub (arms) on Dowty Rotol Type R.209/4-40-4.5/2 propellers. After issuing Amendment 39-3272, the FAA has determined that the installation of an alternate strengthened hub eliminates the need for the repetitive inspections required by the AD.

The amendment also changes the authority for providing adjustments of the inspection intervals and equivalent means of compliance.

This action clarifies an existing AD by limiting its effect to those propeller hubs which are subject to develop cracks. Propellers with later developed, strengthened hubs, are not subject to this problem and it is not necessary that they be subject to the same inspections mandated by the original AD. Accordingly, as this is essentially editorial and clarifying in effect, notice and public procedure from here on are unnecessary and contrary to the public interest and good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Propellers, Engines, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3272, AD 78-16-02, as follows:

1. By adding a new paragraph (a)(3) as follows:

(a)(3) Compliance with this AD is not required for propellers having the new strengthened hub Part No. 601023446 installed in place of hub Part No. 601023335.

2. By revising paragraph (e) to read as follows:

(e) "Upon request, the Manager, Engine and Propeller Standards Staff, ANE-110 , FAA, New England Region, may adjust the inspection interval. . . ." This amendment becomes effective on November 15, 1984.

This amendment amends Amendment 39-3272, AD 78-16-02.

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

Note.—The FAA has determined that this regulation provides an alternative to existing requirements. The cost of a propeller modification to include the strengthened hub is approximately $30,000 and the cost of each of the existing repetitive inspection, which would be eliminated, is approximately $2500. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

Issued in Burlington Massachusetts, on October 24, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-30336 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-89-AD; Amdt. 39-4952]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires a one-time inspection of the wing flap hinge bracket lower attach studs on certain Donnell Douglas DC-9 and Military C-9 series airplanes. There have been reports of flap hinge bracket lower attach stud failures which, if not corrected, could result in the rotation of the flap bracket during flap actuation and subsequent jamming of the aileron control cables. This situation could result in the loss of flap and aileron (lateral) control, as well as damage to the spoiler, flap vanes, and primary wing structure.

DATE: Effective November 20, 1984.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

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

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

SUPPLEMENTARY INFORMATION: This AD is promoted by reports from two operators concerning two instances of failed wing flap hinge lower attach studs which attach the wing flap outboard idler hinge to the wing rear spar at station Xw=333.148. When the lower studs failed, the support fitting rotated upwards under flap loading. Because the aileron control cables pass through a hole in the support bracket, rotation of the bracket could cause the control cables to be severed or jammed. This could cause the loss of lateral control of the airplane. Stud failures have been attributed to hydrogen embrittlement. Accomplishment of the non-destructive inspection (NDI) as outlined in McDonnell Douglas Service Bulletin A57-162, dated April 27, 1984, or later FAA approved revisions, will detect cracked hinge studs and thereby preclude the possibility of stud failure.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires non-destructive inspection of the wing flap hinge lower attach studs.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

McDONNELL DOUGLAS: Applies to McDonnell Douglas Model DC–9–10, –20, –30, –40, –50, and C–9 (Military) series airplanes which have been modified in accordance with McDonnell Douglas Service Bulletin 57–118 and/or production equivalent, certificated in all categories. Compliance required as indicated unless previously accomplished.

To detect cracked wing flap outboard hinge lower stud(s) due to hydrogen embrittlement, and prevent failure of the wing hinge bracket, accomplish the following:

A. Prior to the accumulation of 10,400 landings or within 400 landings, whichever occurs later, from effective date of this AD, ultrasonically inspect the flap hinge fitting lower studs for cracking in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A57–162, dated April 27, 1984, or later FAA approved revisions.

B. If no cracking is found, no further action is required.

C. If cracking is found, replace all four studs in accordance with the Accomplishment Instructions of Paragraph 2 of McDonnell Douglas DC–9 Alert Service Bulletin A57–162, dated April 27, 1984, or later FAA approved revisions.

D. Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

This Amendment becomes effective November 20, 1984.

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

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

Issued in Seattle, Washington, on October 31, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–30332 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–96–AD; Amdt. 39–4950]

Airworthiness Directives; Short Brothers Ltd. Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Short Brothers Ltd. Model SD3–60 series airplanes which requires replacement of the existing pitot type oil cooler air intake scoop with a "D" type scoop. Several instances of icing of the existing scoop have been reported while operating in severe icing conditions. Partial blocking of the scoop by ice results in high oil temperatures which could require shutdown of an engine during flight.

DATE: Effective December 15, 1984.

Compliance: Required within the next 60 days after the effective date of this AD (unless already accomplished).

ADDRESSES: The applicable service information may be obtained from Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202 or may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office; telephone (206) 431–2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified Short Brothers Ltd. Service Bulletin SD360–71–05 as mandatory. Service experience and evaluation by the manufacturer have shown that the existing pitot type coil cooler air intake scoop fitted to the SD3–60 airplane tends to ice more easily than the "D" type scoop fitted to the SD3–30 airplane. Several reports of high oil temperatures have been reported while operating in severe icing conditions. Investigation revealed that this was caused by ice blocking the oil cooler air intake scoop.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the oil cooler intake scoops was published in the **Federal Register** on September 11, 1984 (49 FR 35642). The comment period closed on September 29, 1984, and interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

It is estimated that approximately 10 airplanes of U.S. Registry will be affected by this AD, that it will take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are provided by the manufacturer at no cost. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,400. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Short Brothers Ltd: Applies to Model SD3–60 airplanes as listed in Short Brothers Service Bulletin SD360–71–05, dated

March 1984, certificated in all categories. Compliance is required as indicated unless previously accomplished. To prevent icing of the oil cooler air intake scoop, accomplish the following:

A. Within 60 days after the effective date of this airworthiness directive (AD), install the "D" type oil cooler air intake scoop on both intake cowls in accordance with Short Brothers Ltd. Service Bulletin SD360-71-05, dated March 1984.

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

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

This amendment becomes effective December 15, 1984.

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

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Short Brothers Ltd. Model SD3-60 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on October 31, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-30334 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AGL-7]

Alteration to Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the Monroe, Michigan, transition area to accommodate a new RNAV Runway 20 instrument approach procedure to Custer Airport.

The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 GMT, February 14, 1985.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

History

On Tuesday, September 4, 1984, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area near Monroe, Michigan (49 FR 34846).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

Monroe, MI

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Custer Airport (lat. 41°56'10"N., long. 83°26'15"W.) excluding the portion which overlies the Detroit, Michigan, 700-foot transition area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; [49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.69)

Issued in Des Plaines, Illinois, on October 31, 1984.

Edwin S. Harris,

Acting Director, Great Lakes Region.

[FR Doc. 84-30327 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ANM-24]

Revise Transition Area; Price, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The amendment revises the description of the Price, Utah, transition area. The description makes reference to the Carbon VOR which will be relocated and upgraded. This action amends the description to reflect the revised NAVAID coordinates and nomenclature.

EFFECTIVE DATE: February 14, 1985.

FOR FURTHER INFORMATION CONTACT: George L. Orr, Airspace & Procedures Specialist, ANM-531, Federal Aviation Administration, Airspace Docket No. 84-ANM-24, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, the telephone number is (206) 431-2531.

SUPPLEMENTARY INFORMATION: The Price, Utah transition area was established to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions or instrument weather conditions. The relocation of the Carbon VOR area will require new points of reference for accuracy. The geographical area and associated airspace encompassed by the transition area will remain unchanged.

Since this action involves only editorial changes in the description of the transition area and makes no substantive change, notice and public procedure herein are unnecessary. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter

that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, February 14, 1985, as follows:

Price, Utah, Transition Area (Revised)

"That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Carbon VOR/DME (Lat. 39° 36'11.6"N., Long. 10°45'10.1" W), and within 2 miles each side of the 200° radial of the Carbon VOR/DME, extending from the 5-mile radius area to 8 miles south of the VOR; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 11 miles east of the 020° and 200° radials of the Carbon VOR/DME extending from 9 miles north to 18.5 miles south of the VOR".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Issued in Seattle, Washington on November 7, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–30330 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 100

[CGD7; 84–35]

Marine Parade; Fort Lauderdale Christmas Boat Parade

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Fort Lauderdale Christmas Boat Parade. This event will be held on December 15, 1984 between 1830 and 2230 local time. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective at 1830 local time on December 15, 1984 and terminate at 2230 local time on December 15, 1984.

ADDRESSES: Even though this a final rule, any comments should be mailed to Commander, USCG Group Miami, 100 Macarthur Causeway, Miami Beach, FL 33139. The comments and other materials referenced in this rule will be available for inspection and copying at 100 Macarthur Causeway, Communications Center. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: ENS T. F. Tabrah (305) 350–4309.

SUPPLEMENTARY INFORMATION: A Notice of proposed rulemaking was not published for this regulation. There is insufficient time to publish a notice before this event and since the regulations are necessary to safeguard persons and property from the associated hazards notice and comment procedures would be contrary to the public's interest under 5 U.S.C. 553(B). Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "**ADDRESS**" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information: The drafters of notice are ENS T.F. Tabrah, project officer, USCG Group Miami and LCDR K.E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulations: Fort Lauderdale Annual Christmas Boat Parade is a 10 mile parade with approximately 100–125 boats displaying decorative lighting expected to participate. Regulations are issued by the Commander, U.S. Coast Guard Group Miami as a public service to facilitate the holding of this event, to promote maritime safety, and to reduce to a minimum interference with other vessel traffic in the area.

Economic Evaluation and Certification: This final rule is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES.** Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Based upon the information in the draft evaluation, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, the Coast Guard is amending Part 100 of Title 33, Code of Federal Regulations, by adding a temporary § 100.35–T735 to read as follows:

§ 100.35–T735

(a) *Regulated area:* All navigable waters from Fort Everglades Turning Basin (approximate position 26–05.5N, 080–07.0W) proceeding north in the Intracoastal Waterway to Lake Santa Barbara (approximate position 26–14.4N, 080–05.8W).

(b) *Special Local Regulations:* (1) All vessel traffic in the regulated area will be controlled by the Partrol Commander and will proceed at 5 MPH when passing parade participants.

(2) Rule 20 of the Navigation Rules, International-Inland of December 1983 will be suspended for registered participants only.

(3) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be signal for any non-participating vessels to stop immediately. The display of a red distress flare from a patrol vessel will be signal for any and all vessels to stop immediately.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: October 4, 1984.

G.E. Walton,

Captain, U.S. Coast Guard Commander, USCG Group Miami.

[FR Doc. 84–30272 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

Federal Information Resources Management Regulation (FIRMR); Procedures for Ordering Looseleaf Edition

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final notice of procedures for Federal agencies/departments to order the looseleaf edition of the FIRMR.

SUMMARY: This is the final notice announcing procedures for Federal agencies/departments to order copies of the looseleaf edition of the FIRMR. Individual agency offices are responsible for making their quantity requirements for the FIRMR known to their agency's Government Printing Office (GPO) Liaison Officer. Agency GPO Liaison Officers are responsible for consolidating and submitting their agency's requirements to the GPO on a SF–1, citing GPO jacket No. 456–938 and GSA rider requisition No. 5–00193.

DATES: Applicable Dates: The complete text of the FIRMR, including temporary regulations, is scheduled for publication in the **Federal Register** by December 1984. The looseleaf edition will be distributed as soon after that time as possible. Agency GPO Liaison Officers have been advised to take action to consolidate their agency's FIRMR distribution requirements and submit orders to the GPO no later than January 11, 1985.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Thomas, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: (1) The General Services Administration established the Federal Information Resources Management Regulation on April 1, 1984. The FIRMR is located in the Code of Federal Regulations at Title 41 as a new Chapter 201.

(2) The FIRMR combines certain provisions of the Federal Procurement Regulations (FPR) and the Federal Property Management Regulations (FPMR) that concern the acquisition, management, and use of information resources (including automatic data processing (ADP), office automation, records management, and telecommunications) into a single regulation. The complete text of the FIRMR, including the integrated text of former FPR/FPMR provisions and temporary regulations, is scheduled for publication in the **Federal Register** by December 1984. Distribution of the looseleaf edition is expected as soon after that time as possible.

(3) The initial printing of the looseleaf edition of the FIRMR will include the complete codified text and all temporary regulations and bulletins in a three ring embossed binder of about 250 pages. Amendments and other temporary regulations will be distributed as they are issued, as well as information and guidance bulletins, indices of current bulletins, handbooks, reports, and illustrations of forms pertaining to the subject matter.

(4) Since the provisions of the FIRMR are pertinent to many agency activities, it is recommended that the following offices have access to the FIRMR: The senior official designated by the agency head according to the Paperwork Reduction Act of 1980 (44 U.S.C. 3506); the senior procurement executive designated by the agency head according to the Office of Federal Procurement Policy Act Amendment of 1983 (41 U.S.C. 414); policy and program development offices reporting to the above referenced senior officials; information resources program (including ADP, office automation, and telecommunications), personal property, and facilities management offices; records management offices; procurement and contracting offices (including all procurement personnel assigned to information resources acquisitions); and budget, administrative, oversight, audit, Inspector General, and legal counsel offices and reference libraries supporting agency information resources activities.

(5) Agency GPO Liaison Officers have been requested to consolidate their agency's copy requirements on a SF–1 citing GPO jacket No. 456–938 and GSA rider requisition No. 5–00193. Consolidated SF–1's must be submitted to the Central Office, GPO, no later than January 11, 1985, and must be submitted through agency's Washington, DC headquarters office only. It is imperative that immediate action is taken to assemble agency distribution lists for the FIRMR and make copy requirements known to GPO by January 11, 1985. If too few copies are ordered, GPO supplies may not be available for replenishment, and reprints will be much costlier. Once FIRMR distribution requirements have been established, distribution lists for the FPR and Subchapters B and F of the FPMR will no longer be used to distribute FIRMR materials.

(6) All production costs for the looseleaf edition of the FIRMR will be prorated to participating Federal activities by GPO. Since total copy requirements are not yet known, GPO is unable to provide an estimate of the cost. However, it is anticipated that the cost for FY 1985 will be between $20.00 and $25.00.

(7) Private sector companies, associations, businesses, publishers, and other interested parties will be provided with an opportunity to place subscription orders to the looseleaf edition of the FIRMR with the Superintendent of Documents. Ordering information will be provided in a subsequent **Federal Register** notice prior to the publication date.

Dated: November 14, 1984.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 84–30417 Filed 11–19–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, and 175

[Docket No. HM–184B; Amdt. Nos. 171–80, 173–181, 175–32]

Implementation of the ICAO Technical Instructions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1985 edition of the ICAO Technical Instructions becomes effective on January 1, 1985, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–0656.

SUPPLEMENTARY INFORMATION: On July 2, 1984, the MTB published a notice (Docket HM–184B, Notice No. 84–5) in the **Federal Register** (49 FR 27180) which requested public comment on the need to amend the Hazardous Materials

Regulations (HMR) in order to take account of the 1985 edition of the ICAO Technical Instructions.

Two commenters responded to Notice No. 84–5. Following full consideration of the comments received, the proposals contained in the notice are being adopted with certain changes. Both comments received supported the actions proposed in the Notice of Proposed Rulemaking with the exception of the amendments to § 175.10(a)(2) concerning the transport of aircraft parts, equipment and supplies. While both commenters agreed that aircraft parts, equipment and supplies that meet the definition of a hazardous material should be properly identified, marked, labeled and packaged during transportation, they felt that the regulations should permit the use of the standard long-life reusable packagings used by aircraft parts manufacturers and by many carriers for the transportation of such hazardous materials aboard aircraft.

The amendment to § 175.10(a)(2) was proposed in response to changes made to the exceptions in the ICAO Technical Instructions for aircraft parts and supplies. However, the MTB now believes that the ICAO amendments to the exceptions for aircraft parts and supplies will be reconsidered at the next meeting of the ICAO Dangerous Goods Panel, and one specific proposal for such reconsideration has already been submitted to ICAO by a member of the Dangerous Goods Panel. Because the likelihood exists that the ICAO exceptions for aircraft parts and supplies will be further amended in the near future, the MTB has decided to make no change to § 175.10(a)(2) at this time, and the proposed amendment is, therefore, withdrawn. Amendment of this paragraph will be considered in a future rulemaking on the basis of the results of the anticipated ICAO reconsideration of the matter.

An editorial change has been made to the text of § 175.10(a)(22) that appeared in the notice to require that the individual transporting the barometer advise the operator of the presence of the barometer, and to clarify that it is the operator of the aircraft who must advise the pilot-in-command of the presence of a mercury barometer aboard the aircraft.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171, 173 and 175 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.7, paragraph (d)(27) is revised to read:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284–AN/905 (ICAO Technical Instructions), 1985 edition.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.860 [Amended]

2. In § 173.860, paragraph (b)(1) is removed.

PART 175—CARRIAGE BY AIRCRAFT

3. In § 175.10, a new paragraph (a)(22) is added as follows:

§ 175.10 Exceptions.

(a) * * *

(22) A mercurial barometer carried as carry-on-baggage only, by a representative of a government weather bureau or similar official agency, provided that individual advises the operator of the presence of the barometer in his baggage. The barometer must be packaged in a strong outer packaging having sealed inner liner or bag of strong, leak proof and puncture-resistant material impervious to mercury, which will prevent the escape of mercury from the package irrespective of its position. The pilot-in-command must be informed of the presence of any such barometer by the operator of the aircraft.

4. In § 175.33, the existing paragraphs (a)(3), (4), (5) and (6) are redesignated as (a)(5), (6), (7) and (8) respectively, paragraph (a)(2) is revised and new paragraphs (a)(3) and (a)(4) are added as follows:

§ 175.33 Notification of pilot-in-command.

(a) * * *

(2) The toal number of packages;

(3) The net quantity or gross weight, as applicable, for each package except those containing radioactive materials and those for which there is no limit imposed on the maximum net quantity per package;

(4) The location of the packages aboard the aircraft;

* * * * *

§ 175.85 [Amended]

5. In § 175.85(c)(1)(v), the figures "90 °F (32 °C)" are replaced by the figures "73 °F (23 °C)".

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document is not a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) and does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) I certify that this amendment will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment is minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on November 14, 1984.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84-30436 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 49, No. 225
Tuesday, November 20, 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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1255

Ancillary Matters; Discovery

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Proposed rule.

SUMMARY: Under 5 U.S.C. 1205(b)(2)(A), the Special Counsel may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. Current regulations of the Office of the Special Counsel permit service of subpenas by delivery either in person or by registered or certified mail. However, the regulations are not clear as to when delivery of subpenas by the above methods is effective. To avoid confusion, the regulation is proposed to be amended to clarify that service of subpenas is effective when made by delivery in person or by registered or certified mail to the residence or principal place of business of the person to be served.

DATE: Comments are due on or before December 20, 1984.

ADDRESS: Send comments to Office of Special Counsel, Leonard M. Dribinsky, 1120 Vermont Avenue, NW., Suite 1100, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Leonard M. Dribinsky, (202) 653–8968.

SUPPLEMENTARY INFORMATION:

E.O. 12291, Federal Regulation

OSC has determined that this is not a major rule as defined in section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to the manner in which OSC may serve subpenas.

List of Subjects in 5 CFR Part 1255

Administrative practice and procedure, Ancillary matters, Discovery, Government employees.

PART 1255—[AMENDED]

Accordingly, pursuant to 5 U.S.C. 1206(k), OSC amends 5 CFR Part 1255 by revising § 1255.1 to read as follows:

§ 1255.1 Subpenas.

(a) The Special Counsel may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. A subpena may be served by delivery in person or by registered or certified mail to the residence or principal place of business of the person to be served.

(b) Service of subpenas may be effected by one or more of the following means:

(1) *By delivery to an individual.* The subpena may be delivered to the person to be served.

(2) *By delivery to an address.* The subpena may be left at the residence or principal place of business of the person to be served.

(3) *By registered or certified mail.* The subpena may be sent by registered or certified mail to the residence or principal place of business of the person to be served.

(c) The subpenas must be signed by the Special Counsel, or by his designee upon a specific delegation by the Special Counsel. Subpenas may not be signed in blank.

(d) In the case of contumacy or failure to obey a subpena issued by the Speical Counsel or his designee, the Special Counsel may request the United States District Court for the judicial district in which the person to whom the subpena is addressed resides, or is served, to issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Upon any failure to obey an order of the court granted pursuant to the application of the Special Counsel, the Special Counsel may request the court to hold the person or persons to whom the order was directed in contempt of court.

(e) Application to a federal court for enforcement of a subpena issued under this section may be made by the Special Counsel or his designee.

Dated: November 8, 1984.

K. William O'Connor,

Special Counsel.

[FR Doc. 84–29953 Filed 11–19–84; 8:45 am]
BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Restrictions on Representations

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed its regulations on Restrictions on Representations. FGIS proposes to amend its regulations on "Restrictions on Representations" by clarifying and condensing the provision on restrictions with respect to designations, marks, and representations and making other miscellaneous non-substantive changes for clarity. These proposed changes will facilitate use of the regulations.

DATE: Comments must be submitted on or before January 18, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above), telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services and those entities that perform such services do not meet the requirements for small entities.

Review of Regulations

The review of the regulations on Restrictions on Representations (7 CFR 800.55–800.57) included a determination of the continued need for and consequences of the regulations. An objective was to assure that the language of the regulations is clear and that the regulations are consistent with FGIS policy. FGIS has determined that these regulations in general are serving their intended purpose, are consistent with FGIS policy, are necessary, and should remain in effect.

FGIS proposes, however, to: (1) change the title of the provisions to "Descriptions" from "Restrictions on Representations"; (2) Amend § 800.55, Restrictions with respect to descriptions of grain by grade by (a) changing the title to Descriptions by grade, and (b) revising the section by clarifying the language and adding certain provisions which appear in section 6, United States grain Standards Act, relating to prohibited descriptions; (3) Amend § 800.57, Restrictions with respect to designations, marks, and representations, by (a) changing the title to Requirements on descriptions, (b) revising the section to clarify and condense the language, and (c) incorporating sub-paragraphs (a) through (i) into two sub-paragraphs (a) and (b); and (4) Renumber the current § 800.57 as § 800.56.

By a final rule published in the **Federal Register** on September 14, 1984, (49 FR 36067) FGIS removed § 800.56, Official certificates, official forms, and official marks. The definitions comprising this section were moved to § 800.0(b).

The above changes are proposed to condense and clarify these regulations.

These proposed changes also would facilitate the use of the regulations.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, it is proposed that §§ 800.55 and 800.57 "Restrictions on Representations" be amended as follows:

1. The Centerheading which precedes § 800.55 be amended to read as follows:

Descriptions

2. Section 800.55 be revised to read as follows:

§ 800.55 Descriptions by Grade.

(a) *General.* In any sale, offer for sale, or consignment for sale, which involves the shipment of grain in interstate or foreign commerce, the description of grain, as being of a grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, is prohibited if such description is other than by an official grade designation, with or without additional information as to specified factors. An official grade designation contains any of the following: the term "U.S.," the numerals 1 through 5, the term "Sample grade," or the name of a subclass or a special grade of grain specified in the Official United States Standards for Grain.

(b) *Proprietary brand names or trademarks.* A description of grain by a proprietary brand name or a trademark that does not resemble an official grade designation will not be considered to be a description by grade; but a description by a proprietary brand name or trademark that contains singly or in combination any of the terms referenced in paragraph (a) of this section shall be considered to resemble an official grade designation.

(c) *Use of one or more factor designations.* In interstate commerce, a description of grain by the use of one or more grade factor designations which appear in the Official United States Standards for Grain or by other criteria will not be considered to be a description by grade.

(d) *False or misleading descriptions.* In any sale, offer for sale, or consignment for sale of any grain which involves the shipment of grain from the United States to any place outside thereof, knowingly using a false or misleading description of grain by official grade designation, or other description is prohibited.

3. Section 800.57 be redesignated as § 800.56 and revised to read as follows:

§ 800.56 Requirements on descriptions.

Section 13 of the Act contains certain prohibitions with respect to the use of official grade designations, official marks, and other representations with respect to grain.

(a) the use of an official grade designation, with or without factor information, or of official criteria information, or of the term "official grain standards," shall not, without additional information, be considered to be a representation that the grain was officially inspected.

(b) The use of any symbol or term listed as an official mark, at § 800.0(b)(68), with respect to grain shall be considered to be a representation of official service under the Act: Provided however, that the use of the official marks "official certificate;" "officially inspected;" "official inspection;" "officially weighed;" "official weight;" and "official weighing" shall not be considered to be a representation of official service under the act if it is clearly shown that the activity occurred under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*): Provided further, that the use of the official mark 'officially tested" with respect to grain inspection and weighing equipment shall not be considered to be a representation of testing under the Act if it is clearly shown that the equipment was tested under a State statute.

Authority: Secs. 7, 15, 18, Pub. L. 94–582, 90 Stat. 2870, 2883, 2884;) (7 U.S.C. 78, 87b, 87e).

Dated: October 30, 1984.

K. A. Gilles,

Administrator.

[FR Doc. 84–30373 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–EN–M

Rural Electrification Administration

7 CFR Part 1772

[REA Bulletin 345–39]

REA Specification for Telephone Station Protectors

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–39, REA Specification for Telephone Station Protectors to adopt PEG–2–1983, an industry standard, and withdraw REA's PE–42, a proprietary REA standard addressing the same product.

The Protection Engineers' Group (PEG) is a subordinate body of the U.S. Telephone Association's (USTA) Engineering Committee. PEG develops uniform industry standards for protective devices used in

telecommunications systems in addition to other activities. The group enjoys broad support and participation from operating companies as well as a number of government agencies, including REA, from throughout the United States and Canada. PEG–2–1983, Specification for Telephone Station Protectors, represents a consensus of these participants as to the minimum acceptable performance requirements for a telephone station protector.

DATE: Public comments must be received by REA no later than January 22, 1985.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: E.J. Cohen, Engineering Management and Standards Engineer, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8698. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–39, REA Specification for Telephone Station Protectors. REA will seek approval for Incorporation by Reference from the Director of the Office of the Federal Register prior to the issuance of a final rule. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the ecomony of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse affects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans.

Copies of the revised bulletin are available upon request from the address indicated above. Copies of PEG–2–1983 may be obtained for a nominal fee from the United States Telephone Association, 1801 "K" Street NW., #1201, Washington, DC 20006, telephone (202) 872–1200. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

The present edition of PE–42 was developed in 1980 by REA. While industry comments were sought and considered at several points in the development, REA retained ultimate control of the document's content. Other major operating telephone companies took a similar position and, as a result, several specifications, each varying slightly in content and requirements were developed for this product.

The Protection Engineers' Group (PEG) is a subordinate body of the U.S. Telephone Association's (USTA) Engineering Committee. PEG develops uniform industry standards for protective devices used in telecommunications systems in addition to other activities. The group enjoys broad support and participation from operating companies as well as a number of government agencies, including REA, from throughout the United States and Canada. PEG–2–1983, Specification for Telephone Station Protectors, represents a consensus of these participants as to the minimun acceptable performance requirements for a telephone station protector.

REA's role in developing and adopting this specification is in accordance with the requirements of OMB Circular A–119 which requires Federal agencies to adopt private sector standards in lieu of developing their own in-house standards.

List of Subjects in 7 CFR 1772

Loan programs—communications, Telecommunications, Telephone.

PART 1772—[AMENDED]

In view of the above, the Administrator is proposing to amend 7 CFR Part 1772. Section 1772.97 is amended to add the following entry:

§ 1772.97 Incorporation by Reference of Telephone Standards and Specifications

* * * * *

345–39...REA Specification for Telephone Station Protectors.

* * * * *

(7 U.S.C. 901 et seq.)

Dated: November 2, 1984.

Jack Van Mark,

Acting Administrator.

[FR Doc. 84–30374 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–15–M

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7 CFR Part 1772

REA Bulletin 345–72; REA Specification for Filled Splice Closures, PE–74

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–72, REA Specification for Filled Splice Closures, PE–74, to permit salvageable and non-salvageable parts in reenterable splice closures, to delinate required hardware materials, to address testing parameters for different encapsulating compounds, to add a test requirement for the cable closure encapsulant system in a simulated application environment and to require closure identification and assembly instructions in the product package. All splice closure manufacturers and REA borrowers will be impacted in that REA's revised requirements will reflect state of the art technology and will this permit the construction of the best, most cost-effective facilities possible.

DATE: Public comments must be received by REA no later than January 22, 1985.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR 1772.97, Incorporated by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–72, REA Specification for Filled Splice Closures,

PE–74. REA will seek approval for Incorporation by Reference from the Director of the Office of the Federal Register prior to the issuance of a final rule. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans.

Copies of the document are available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

The present edition of REA's Specification for Filled Splice Closures does not differentiate salvageable and non-salvageable closure parts. By specifically addressing both categories of closures misunderstanding relative to the use of salvageable and non-salvageable parts will be circumvented. A closure kit is required by the revised specification. By specifying all materials constituting a closure, i.e., case, shield bonding hardware and reenterable encapsulant, all necessary materials are in a single on site when needed. Tests for both jelling and non-jelling compounds are required to assure satisfactory encapsulant performance in and out of its system and will eliminate potential bias towards the use of either type of encapsulant. The closure performance evaluation was modified to include a test that considers the realistic possibility of a damaged cable sheath channeling water to the splice bundle. The splice closure must demonstrate during this test that the splice is truly protected from a potentially damaging environment. Closure identification marking requirements added to this revision will permit quick recognition of the closure design and the manufacturer. Inclusion of assembly instructions will prevent mistakes in case assembly and in encapsulant application which could lead to splice failure.

The revisions to this specification will result in a better defined closure product for REA borrowers with minimum impact to the closure manufacturers. Slight product cost increases may result from the requirements for instructions and marking but should be more than offset by convenience and assistance to the borrower. The quality of closures to REA borrowers should increase.

List of Subjects in 7 CFR Part 1772

Loan programs—communications, Telecommunications, Telephone.

PART 1772—[AMENDED]

In view of the above, REA is proposing to amend 7 CFR Part 1772. Section 1772.97 would be amended by revising the entry 345–72 to read as follows:

§ 1772.97 Incorporation by reference of Telephone standards and specifications.

* * * * *

345–72	PE–74	REA.

Specification for Filled Splice Closures.

* * * * *

(7 U.S.C. 901 et seq.)

Dated: November 14, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–30448 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–15–M

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7 CFR Part 1772

REA Bulletin 345–65, REA Specification for Cable Shield Bonding Connectors, PE–33

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standard and Specifications, by issuing a revised Bulletin 345–65, REA Specification for Cable Shield Bonding Connectors, PE–33. This revision will incorporate a section on shield bonding connector specifically designed for installation on filled buried service wire. The current standard does not cover the requirement for buried service wire shield bonding connectors. Including the new section in PE–33 will provide REA telephone borrowers with more suitable and less costly connector for use on buried service wire. Presently, shield bonding connectors for large size cables are used on small diameter buried service wires making a satisfactory difficult and requiring much more time to complete. Manufacturers of shield bonding connectors and all REA borrowers will be impact in that REA's requirements will reflect state of the art technology and will thus permit the construction of the best, most cost-effective facilities possible.

DATE: Public comments must be received by REA no later than January 22, 1985.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director Telecommunications Engineering and Standard Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Chief, Outside Plant Branch, Telecommunications Engineering and Standard Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised Bulletin 345–65, REA Specification for Cable Shield Bonding Connectors, PE–33. REA will seek approval for Incorporation by Reference from the Director of the Office of the Federal Register prior to the issuance of a final rule. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse affects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans.

Copies of the document are available upon request from the address indicated above. All written submissions made

pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

The Present edition of REA's Specification for Cable Shield Bonding Connectors, PE–33, does not address those designed specifically for use on filled buried service wire. As a result, connectors meeting the present specification are ill-suited for this use and a satisfactory installation is difficult and requires excessive time to complete. A number of manufacturers produce shield bonding connectors which are designed for this use and which will permit an acceptable installation at a significantly lower cost in time and materials. The revised specification recognizes this state of the art technology and permits its application on the systems of REA borrowers.

In view of the above, the Administrator is proposing to issue a revised Bulletin 345–65, REA Specification for Cable Shield Bonding Connectors, PE–33.

Indexing Terms: As required by 1 CFR 18.20, the following are the indexed terms and list of subjects:

List of Subjects in 7 CFR Part 18

Loan programs—communications, Telecommunications.

Dated November 14, 1984

Harold V. Hunter,

Administrator

[FR Doc. 84–30449 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–15–11

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–NM–97–AD]

Airworthiness Directives: Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require inspections for cracking of flap beams No. 2, left and right, on Airbus Industrie Model A300 B2 and B4 series airplanes. During fatigue tests, the flap beam developed cracks and ultimately failed. This condition can lead to flap asymmetry and create a hazardous flight condition.

DATE: Comments must be received no later than December 30, 1984.

ADDRESSES: The applicable service information may be obtained from Airbus Idustrie, Airbus Support Division, Centreda, Avenue Didier Daurat, 31700 Blagnac, France, or may also be examined Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–97–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: The French Civil Aviation Authority (DGAC) has issued a Consigne de Navigabilite which mandates compliance with the requirements of Airbus Industrie Service Bulletin A300–57–116.

Analyses show that cracks may occur at the bolt holes of the flap beam base members and light alloy side members. Fatigue tests proved these analyses, since the flap beam developed cracks at 43,000 simulated landings and failed in the expected locations at 48,000 simulated landings. Based on this data the manufacturer determined that the flap beam must be inspected prior to 15,000 landings to detect cracks before failure of the beam.

The service bulletin prescribes inspections for cracking of the base steel member and light alloy side members of the flap beams No. 2, LH and RH. The service bulletin also prescribes replacement of the flap beams if cracks exceed a specified dimension.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the action previously mentioned to prevent flap beam failure, which in turn can cause flap asymmetry.

It is estimated that 33 U.S. registered airplanes would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $15,840. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects In 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, certificated in all categories. To prevent flap asymmetry, within 120 days after the effective date of this AD or upon reaching 15,000 landings, whichever occurs later, accomplish the following, unless previously accomplished:

A. Inspect the base steel member and light alloy side members of the flap beams No. 2, LH and RH, for cracks, in accordance with the accomplishment instructions of Airbus Industrie Service Bulletin A300–57–116, Revision 1, dated August 27, 1983.

1. If no cracks are found, repeat the inspection at intervals not to exceed 1,700 landings.

2. If cracks are detected, repeat the inspection at intervals not to exceed 250 landings as long as crack length is 4mm or shorter. If crack length exceeds 4mm, the flap beam must be replaced before further flight.

B. Five thousand (5,000) additional landings are permitted before performing the first of the repetitive inspections required by paragraph A.1., above, if the modification described in Airbus Industrie Service Bulletin A300–57–128, dated August 27, 1983, is incorporated, provided:

1. No cracks are detected, and

2. The number of landings accumulated is 16,700 or less.

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

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on October 31, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–30331 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 84–ANM–29]

Proposed Establishment of Transition Area, Huntington, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Huntington, Utah. The intended effect of the proposed action is to provide controlled airspace from 700 feet above the surface for aircraft executing the instrument approach procedure to Huntington Municipal Airport. This action is necessary to ensure segregation of the aircraft using the approach procedures in instrument weather conditions.

DATES: Comments must be received on or before December 21, 1984.

ADDRESSES: Send comments to: Manager Airspace & Procedures Branch, ANM–530, Federal Aviation Administration, Docket No. 84–ANM–29, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office at the above address.

An informal docket may also be examined during normal business hours at the Airspace & Procedures Branch, Air Traffic Division, same address.

FOR FURTHER INFORMATION CONTACT: George Orr, Airspace & Procedures Specialist, ANM–531; the telephone number is: (206) 431–2530.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ANM–29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace & Procedures Branch, 17900 Pacific Highway South, Seattle, WA, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, at the address previously listed. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and for the same reasons, (4) it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows.

Huntington, Utah Transition Area [New]

"That airspace extending upward from 700 feet above the surface within 3 miles west and 5 miles east of the 210° radial of Carbon VOR (lat. 39° 36' 11.6"N., Long. 110° 45' 10.1"W.) extending from 10 miles south to 24 miles south of the VOR; that airspace extending upward from 1200 feet above the surface within 6 miles west and 8 miles east of the 210° radial of the Carbon VOR extending from 5 miles south to 24 miles south of the VOR, excluding the portion

within the Price, Utah, 1200 foot transition area, and the portion that overlaps V208."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 2, 1983)); and 14 CFR 11.65)

Issued in Seattle, Washington, on October 23, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–30329 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 84–ANM–33]

Proposed Removal of the Nucla, Colorado Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Nucla, Colorado transition area was established to ensure segregation of aircraft operating in instrument weather conditions, and other aircraft operating in visual weather conditions. It was established in anticipation of instrument approach procedures to the Hopkins Field Airport using the Nucla NDB. However, the Nucla NDB has failed certification tests despite efforts to correct the deficiencies and approach procedures cannot be authorized. Therefore, the transition area is no longer necessary.

Although cancellation of the transition area would eliminate both the 700 and 1200 foot areas, adjacent 1200 foot transition areas would automatically fill in and controlled airspace would remain at 1200 feet and above.

DATES: Comments must be received on or before January 2, 1985.

ADDRESSES: Send comments on the proposal to: Manager Airspace & Procedures Branch, ANM–530, FAA Northwest Mountain Region, Docket No. 84–ANM–33, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel Office at the same address.

An informal docket may also be examined during normal business hours in the Airspace & Procedures Branch, Air Traffic Division, same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, at the same address. The telephone number is (206) 431–2533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify Airspace Docket No. 84–ANM–33 and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ANM–33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking final action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration at the addresses listed above. Communications must identify Airspace Docket No. 84–ANM–33. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application process.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the Nucla, Colorado, transition area and thereby release that airspace below 1200 feet above ground level for other than instrument weather operations. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Remove the Nucla, Colorado Transition Area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Seattle, Washington, on November 7, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–30328 Filed 11–19–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 320

[Docket No. 40787–4087]

Adjustment Assistance for Firms and Industries

Correction

In FR Doc. 84–29695 beginning on page 44902 in the issue of Tuesday, November 13, 1984, make the following corrections:

1. On page 44904, in the third column, §320.2(d), in the second line, "to readjustment" should read "for adjustment".

2. On page 44906, in the first column, §320.8, in the third line, insert "or" before "knowingly".

3. On the same page, in the same column, §320.12(a), in the fifth line, "of" should read "on".

4. On page 44907, in the first column, §320.24(c), in the fourth line, insert "a" after "by".

5. On the same page, in the second column, §320.24(g)(3), the last two

sentences beginning "The party * * *" should have begun a new paragraph.

BILLING CODE 1501-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-56-83]

Credit or Refund of Windfall Profit Taxes to Certain Trust Beneficiaries

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 6430 of the Internal Revenue Code of 1954 relating to a credit or refund of windfall profit taxes to certain trust beneficiaries. Changes to the applicable law were made by the Technical Corrections Act of 1982. The regulations would provide guidance on the requirements for qualification for, and the computation of, this credit or refund of windfall profit tax.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 22, 1985. The regulations are proposed to be effective with respect to crude oil removed (or deemed removed) during calendar years beginning after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-56-83) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW. Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3516, not a toll-free call).

SUPPLEMENTARY INFORMATION

Background

This document contains proposed amendments to the Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51). These amendments are proposed to conform the regulations to section 106(a)(4)(A) of the Technical Corrections Act of 1982 (Pub. L. 97-448). These proposed regulations are to be issued under the authority contained in sections 6430(e) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 2390 and 68A Stat. 917; 26 U.S.C. 6430(e) and 7805).

In General

Under section 6430(a) and the proposed regulations, any portion of the windfall profit tax paid by a trust which is attributable to a qualified beneficiary is treated as an overpayment of windfall profit tax by such beneficiary, and this overpayment is to be credited against any windfall profit tax imposed on the beneficiary or refunded to the beneficiary. An overpayment is attributable to a qualified beneficiary to the extent that windfall profit tax is paid by the trust, with respect to the qualified royalty production of the trust that is allocated, in accordance with rules contained in section 6430 and the proposed regulations, to such qualified beneficiary.

Under section 6430(b) and the proposed regulations, the amount under section 6430(a) is limited to an amount attributable to the beneficiary's unused exempt royalty limit for the calendar year. The proposed regulations also provide rules for allocating the qualified royalty production of the trust between the trust and its income beneficiaries and definitions for the terms "qualified beneficiary," "qualified royalty production" and "producer."

The proposed regulations provide that a qualified beneficiary shall treat a credit for, or refund of, windfall profit tax determined under section 6430 as an additional distribution to such beneficiary of distributable net income (DNI) of the trust. The beneficiary shall then include this additional distribution of DNI in income. This rule is designed to reflect the fact that taxes generating the overpayment are deductible by the trust against its income tax liability even though such taxes have been refunded to the trust's beneficiaries. If the trust had paid or incurred the net amount of windfall tax during the year (*i.e.*, net of the overpayment) and claimed the corresponding deduction for taxes, the trust would have had additional DNI to distribute to its beneficiaries. This additional DNI to the trust would then generate an additional deduction to the trust when distributed to the beneficiaries, and the beneficiaries would have included such distribution in gross income. Absent the rule described in this paragraph, the beneficiary would, in effect, be getting a distribution of DNI from the trust tax-free.

The proposed regulations also clarify that section 6430 is not available to the extent that the trust is a grantor trust (*i.e.*, a trust the income of which is taxed to a grantor, or other person, under subchapter J of the Code) since a grantor trust does not have adjusted distributable net income and since the grantor, rather than the trust, is the producer in the case of grantor trust.

Under section 4994(f)(2)(C) and the proposed regulations, a qualified beneficiary may elect to increase the credit under section 6430 by reducing the royalty owner's exemption under section 4994(f).

The proposed regulations also contain a proposed amendment to the regulations under section 4997 which would impose on a trust the requirement to furnish to each qualified beneficiary a Form 6248.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer of Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that the proposed rule is not subject to review under Executive Order 12291 or the Treasury—OMB implementation of that Order, dated April 29, 1983. Accordingly, a Regulatory Impact Analyses is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the

Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 51 are as follows:

PART 51—[AMENDED]

Paragraph 1. Paragraph (f)(4) of § 51.4994–1 is proposed to be added to read as follows:

§ 51.4994–1 Definitions relating to exemptions.

* * * * *

(f) *Exempt royalty oil.*

(1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) *Royalty limit*—(i) *In general.* Except as provided in paragraph (f)(4)(iv) of this section, a qualified royalty owner's qualified royalty production is determined by applying section 4994(f)(2)(A).

(ii) *Production exceeds limitation.* If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limit in section 4994(f)(2)(A) for such quarter, the royalty owner may allocate the royalty limit for such quarter to any qualified royalty production that the royalty owner selects.

(iii) *Allocation of royalty limit among taxpayers.* For the purpose of allocating the royalty limit in section 4994(f)(2)(A) among taxpayers, section 6429(c) (2) through (4) will be applied except that the royalty limit determined under section 4994(f)(2)(A) is substituted in place of $2,500 each time it appears in section 6429(c) (2) thru (4).

(iv) *Election to increase section 6430 royalty credit by reducing the royalty owner's exemption.* Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430 and § 51.6430–1(d)(1)) for any quarter may elect, by way of a marginal notation on Form 6249, to reduce by any amount the qualified royalty owner's royalty limit determined under section 4994(f)(2)(A) for such quarter after applying paragraph (f)(4)(iii) of this section.

* * * * *

Par. 2. Paragraph (c) of § 51.4997–2 is amended by adding at the end thereof a new paragraph (c)(7) to read as follows:

§ 51.4997–2 Certain information to be furnished by producers and others.

* * * * *

(c) *Yearly statement of windfall profit tax liability* * * *

* * * * *

(7) *Trusts with qualified royalty production.* In the case of any trust that is a producer (within the meaning of paragraph (b) of § 51.4996–1), that has qualified royalty production for the calendar year (within the meaning of § 51.6430–1(d)(2)) and that has beneficiaries who are qualified beneficiaries (within the meaning of § 51.6430–1(d)(1)), such trust shall furnish to each qualified beneficiary, and file with the Internal Revenue Service, a Form 6248 in accordance with that form's instructions and the rules of this paragraph. A separate statement shall be furnished to, and a separate information return shall be filed for, each qualified beneficiary.

* * * * *

Par. 3. There is added immediately after § 51.6402–1 the following new section:

§ 51.6430–1 Credit or refund of windfall profit tax to certain trust beneficiaries.

(a) *General rule.* Except as otherwise provided in paragraph (b) of this section, that portion of the crude oil windfall profit tax imposed by section 4986 which is paid by any trust with respect to any qualified beneficiary's allocable trust production (within the meaning of paragraph (c) of this section) shall be treated as an overpayment of such tax by such qualified beneficiary. The overpayment described in this paragraph (a) is deemed to be made on the day that an overpayment by the trust would be deemed to be made if the trust's payment of such tax with respect to the same crude oil were an overpayment. Any such overpayment shall be credited against the crude oil windfall profit tax liability of such qualified beneficiary or shall be refunded to such qualified beneficiary. See paragraph (b) of this section for a rule that coordinates this credit or refund with the exemption for exempt royalty oil provided in section 4994(f) and which may require a reduction of the amount determined under this paragraph. See paragraph (d) of this section for definitions of the terms "qualified beneficiary", "qualified royalty production", and "producer".

(b) *Coordination with royalty exemption*—(1) *In general.* If the aggregate amount of the allocable trust production (as defined in paragraph (c) of this section) attributable to any qualified beneficiary exceeds such beneficiary's unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under paragraph (a) of this section with respect to such qualified beneficiary shall be reduced by the amount of the overpayment attributable to such excess. The amount of this reduction is equal to the amount of the overpayment determined under paragraph (a) multiplied by a fraction the numerator of which is the amount of such excess and the denominator of which is the aggregate amount of the beneficiary's allocable trust production, and can be expressed by the following formula:

$$R = O \times \frac{E}{P}$$

Where:

R = the amount of the reduction;
O = the amount of the overpayment determined under paragraph (a) of this section;
E = the amount of the excess; and
P = the aggregate amount of the beneficiary's allocable trust production.

(2) *Unused exempt royalty limit.* The unused exempt royalty limit of any qualified beneficiary for any calendar year is the amount described in section 6430(b)(2) which can be expressed in terms of the following formula:

$$U = (D \times L) - Y$$

Where:

U = the unused exempt royalty limit;
D = the number of the days in such calendar year;
L = the limitation in barrels determined from the table contained in section 4994(f)(2)(A)(ii); and
Y = the amount of exempt royalty oil (within the meaning of section 4994 (f)) with respect to which such qualified beneficiary is the producer, and which is removed from the premises during such calendar year.

(c) *Allocable trust production*—(1) *In general.* For purposes of this section, the term "allocable trust production" means, with respect to any qualified beneficiary, the qualified royalty production of any trust (as defined in paragraph (d)(2) of this section) which is removed (or deemed removed) from the premises during the calendar year, and is allocated to such qualified beneficiary under paragraph (c)(2) of this section.

(2) *Allocation of production*—(i) *In general.* The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries by first allocating to the trust an amount of production based on that portion of the trust income attributable to the qualified royalty production that is set aside under state law in any reserve for depletion for the calendar year, and by then allocating the remaining qualified royalty production between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year attributable to the qualified royalty production. Adjusted distributable net income not attributable to qualified royalty production and income set aside in a depletion reserve not attributable to qualified royalty production shall not be considered for purposes of this calculation. Furthermore, the calculation must be done on the basis of a calendar year even though the trust's taxable year may be other than a calendar year. Thus, for purposes of this paragraph (c)(2), a fiscal year trust must compute its adjusted distributable net income for the calendar year and its reserve for depletion for the calendar year.

(ii) *Adjusted distributable net income.* The term "adjusted distributable net income" means the distributable net income (as defined in section 643) of the trust for the calendar year reduced by any excess in the amount of income added to any depletion reserve maintained by the trust for the calendar year (regardless of the trust's taxable year) over the depletion deduction allowable to the trust under section 611 with respect to the qualified royalty production of the trust for the calendar year.

(iii) *Allocation pro rata from each unit of production.* Each person's allocable share of the qualified royalty production of the trust is deemed to be a pro rata share of each unit (*i.e.*, type and category, including each base price and removal price category) of oil in such qualified royalty production.

(iv) *Grantor trusts.* To the extent that a trust is a grantor trust (*i.e.*, a trust the income of which is taxed to a grantor, or other person, under subchapter J of the Code), qualified royalty production shall not be allocated to a qualified beneficiary of the trust under this section because, to the extent that a trust is a grantor trust, the trust does not have adjusted distributable net income and the grantor rather than the trust is the producer of the crude oil. (See § 51.4996–1(b)(2).)

(3) *Production from transferred Property—(i) In general.* The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer (including changes in beneficiaries of the trust) which is described in section 613A(c)(9)(A), and is not described in section 613A(c)(9)(B).

(ii) *Exception.* Paragraph (c)(3)(i) of this section shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by section 6340(b)(3) to share the amount determined under section 6430(b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

(d) *Definition—(1) Qualified beneficiary.* The term "qualified beneficiary" means any individual or estate which is a beneficiary of any trust which is a producer.

(2) *Qualified royalty production of a trust.* The term "qualified royalty production of a trust" generally means, with respect to any trust, taxable crude oil (within the meaning of section 4991(a)) which is attributable to any economic interest of such trust other than an operating mineral interest of such trust other than an operating mineral interest (within the meaning of section 614(d)). However, such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

(A) Is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

(B) Is not created pursuant to a binding contract entered into before June 10, 1981.

(3) *Producer.* The term "producer" has the meaning given to such term by paragraph (b) of § 51.4996–1.

(e) *Overpayment treated as additional distribution.* Any qualified beneficiary who claims a credit or refund as a result of an overpayment generated under section 6430 must treat the amount of such credit or refund as an additional distribution of distributable net income of trust. Such distribution shall be in addition to any other amount of distributable net income distributed to such beneficiary, and shall be deemed to be paid or accrued on the date that the credit or refund under this section is paid or accrued.

(f) *Example.* The following examples illustrate the application of the rules of this paragraph:

Example (1). Assume that for the calendar year 1983, Trust A has 2,000 barrels of qualified royalty production, royalty income of $60,000, $10,000 of cash expenses, and claims a percentage depletion deduction of $9,600 while setting aside $18,000 (2,000 barrels × 30 percent × $30/barrels) of royalty income in a reserved or depletion recognized under state law. Thus, the excess of the reserve for depletion for the year over the amount allowable as a deduction for depletion to the trust for the year is $8,400 ($18,000 − $9,600). Assume further that A paid windfall profit tax on the royalty oil removed during the calendar year in the amount of $4,000 ($2 per barrel). Under these facts, the first 600 barrels (2,000 barrels × $18,000/$60,000) of A's qualified royalty production is allocated to A. In addition, A has distributable net income in the amount of $40,400 ($60,000 − $10,000 − $9,600) and adjusted distributable net income of $32,000 ($40,400 − $8,400). If under the provisions of the trust document A distributes the $32,000 of income to the two beneficiaries, B and C, in the amounts of $22,857 and $9,143, respectively, the remaining 1,400 barrels of qualified royalty production (2,000 barrels − 600 barrels allocated to the trust) must be allocated between B and C as follows:

1,000 barrels to B (1,400 × (22,857/32,000) and 400 barrels to C (1,400 × (9,143/32,000)). Assume all of the qualified royalty production is removed from the same property. Under section 6430(a) and paragraph (a) of this section and before the application of section 6430(b) and paragraph (b) of this section, B would be treated as having made an overpayment of windfall profit tax during the calender year in the amount of $2,000 ($2×1,000 barrels) and C would be treated as having made an overpayment in the amount of $800 ($2×400 barrels).

Example (2). Assume the same facts as in example (1), and assume that C claimed a royalty owner's exemption under section 4994 (f) for the calendar year with respect to 500 barrels of oil held outside the trust. Under these facts, both B and C must reduce the overpayment determined under paragraph (a) of this section. B's unused royalty limit is 730 barrels (365 days × 2 barrels) and the excess of the number of barrels allocated to B in example (1) over the unused royalty limit is 270 barrels (1,000 barrels − 730 barrels). C's unused royalty limit is 230 barrels (730 barrels − 500 barrels) and the excess of the number of barrels allocable to C in example (1) over the unused royalty limit is 170 barrels (400 barrels − 230 barrels). As a result, B must reduce the amount of the overpayment by $540 ($2,000 × (270 barrels/1,000 barrels)) and C must reduce the amount of the overpayment by $340 ($800 × (170 barrels/400 barrels)). Thus, B may claim a credit or refund in the amount of $1,460 ($2,000 − $540) and must, if such credit or refund is claimed, treat the $1,460 as an additional distribution

of distributable net income. C may claim a credit or refund in the amount of $460 ($800 − $340) and must, if such credit or refund is claimed, treat the $460 as an additional distribution of distributable net income.

(g) *Over payment credited against estimated tax liability.* See section 6654(G)(3)(B) for a rule that allows a taxpayer to offset the overpayment determined under this section against the taxpayer's liability to make estimated tax payments.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-30319. Filed 11-19-84; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA No. 1582; A-7 FRL 2721-5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of Iowa submitted to EPA revised rules pertaining to preconstruction review procedures. The purpose of these revisions is to cure deficiencies in the State's preconstruction review procedures that would be applicable in nonattainment areas. The purpose of today's notice is to propose approval of these regulations, but delay final approval until the State makes certain commitments or EPA finalizes revisions to the new source review regulations proposed August 25, 1983. These rules were adopted by the Iowa Water, Air and Waste Commission on July 17, 1984, and submitted to EPA on July 18, 1984.

Today's notice also announces that the Iowa regulations for controlling air pollution have been recodified. The Iowa Department of Environmental Quality (DEQ) air quality regulations were codified at Department 400, Title I, Chapter 1 through Chapter 14. The DEQ was merged with other State agencies on July 1, 1983, to form the Iowa Department of Water, Air and Waste Management (WAWM). The WAWM air quality regulations are now codified at Department 900, Title II, Chapter 20 through Chapter 39.

DATES: Comments must be received no later than December 20, 1984.

ADDRESSES: Comments should be addressed to Mr. Larry Hacker, Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the State's submission and EPA's technical evaluation are available at the above address, and at the following location: Iowa Department of Water, Air and Waste Management, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at the EPA address above or call (816) 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

I. Background

On March 6, 1980, EPA notified the State of Iowa that its preconstruction review program was inadequate to satisfy the requirement of Section 110(a)(4) of the Clean Air Act. The notification was published in the **Federal Register** (45 FR 14561, March 6, 1980), and advised that if approvable rules were not submitted by December 31, 1980, the State's new source review procedures would not longer be approved. The March 6, 1980, notice was in accordance with section 110(a)(2)(H) of the Act and 40 CFR 51.6.

In addition to the finding of deficiency, the March 6, 1980, rulemaking disapproved the Iowa Part D SIP because the State had no adequate means of preventing CO sources from constructing in violation of Section 173 of the Clean Air Act. The growth restrictions went into effect on July 1, 1979, and remain in effect until the SIP is approved.

The regulations in question were in Chapter 3 of the regulations of the Iowa DEQ. On July 1, 1983, the DEQ was merged with other State agencies to form the Iowa Department of Water, Air and Waste Management. The WAWM air quality rules are codified at Department 900, Chapter 20 through Chapter 39. The DEQ Chapter 3 regulations are now in WAWM 900-22 Controlling Pollution.

On March 28, 1984, the WAWM provided EPA with draft revisions of the Chapter 22 rules pertaining to preconstruction review and emission offsets. Additional draft regulations were submitted to EPA on May 2, 1984. The State held a public hearing on June 11, 1984, and submitted final draft regulations to EPA on July 2, 1984. These regulations were adopted by the Iowa Water, Air and Waste Commission on July 17, 1984. This process satisfies the notification and hearing requirements of 40 CFR 51.4.

EPA has reviewed Iowa's revised regulations and believes that the revisions adopted cure most of the deficiencies in the State's Part D plan, except for crediting of emissions offsets. EPA also believes that the revisions continue to meet the other new source review requirements identified in Section 110 of the Clean Air Act and 40 CFR 51.18.

II. Review of the State's Submission

Permit requirements for new or modified sources are contained in Chapter 22 of the Department of Water, Air and Waste Management (WAWM).

Rule 900-22.1 sets forth general requirements for permits, i.e., who must apply and which sources are exempt. Iowa must make an enforceable commitment not to use the exemption provisions to exempt any major stationary source or major modification from review before EPA can take final action approving this SIP revision. The WAWM regulations contain permit requirements for anerobic lagoons. These requirements are intended to control odor emissions. EPA has no authority to require odor control regulations and has no odor standards. For that reason, EPA is not proposing any action on the WAWM odor regulations. Rule 22.1(4), Conditional permits, is the State's regulation pertaining to preconstruction review of new or modified sources. Rule 900-22.1 satisfies the requirements of 40 CFR 51.18(a), (b) and (c), and the public participation required by § 51.18(h).

Rule 900-22.2 contains procedures which the State follows when processing permit applications. Rule 900-22.3 describe conditions under which permits may be issued. This rule has been revised by adding 22.3 (3)g which satisfies the requirements of 40 CFR 51.18(j)(5)(i) and is approvable. Rule 22.3(3)f is also approvable because portable equipment must receive a supplemental permit if relocation would interfere with attainment or maintenance of air quality standards. Thus, if relocated to a nonattainment area, the source would have to obtain offsets if otherwise required by the regulations since relocation to a nonattainment area can be presumed to interfere with attainment and maintenance of standards.

Rule 900-22.5 contains permit requirements for nonattainment areas. The definitions in 22.5(1) are consistent with the definitions in 40 CFR 51.18(j) and are approvable.

40 CFR 51.18(j)(4) allows that a plan may provide that the provisions of § 51.18(j) do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent

quantifiable, are considered in calculating the potential to emit and the source does not belong to the categories identified.

The Iowa DWAWM has included the exemption authorized by § 51.18(j)(4) as part of its definition of potential to emit found in 900–22.5(1)c. Although the Iowa definition does not expressly state that sources which are major only because of certain fugitive emissions are exempt from the substantive provisions of the permit rule, EPA believes the State clearly intends such an exemption. EPA also believes the State clearly intended that such emissions be counted in determining a source's potential to emit. Thus, EPA believes the State's definition of "potential to emit" is approvable.

Requirements pertaining to offsets in nonattainment areas are contained in 22.5(2). These regulations are applicable in primary and secondary particulate nonattainment areas and carbon monoxide nonattainment areas. This is acceptable because the State is attainment for the remainder of the criteria pollutants, i.e., sulfur dioxide, ozone, lead, and nitrogen oxides. The offset requirements pertaining to secondary particulate nonattainment areas were approved by EPA on September 29, 1981 (46 FR 47546). The State revised the offset applicability rule [22.5(2)d] to include carbon monoxide in order to cure the deficiency in its Part D plan that was identified on March 6, 1980 (45 FR 14568).

Subrule 22.5(2)a requires emissions offsets for major source construction or modification in primary particulate nonattainment areas prior to start up. If such source construction or modification occurs in an attainment or unclassified area, modeling is required to estimate worst case ground level concentrations of particulate matter. If the predicted impact is greater than 5 μ/m^3 24 hour value or 1 μ/m^3 annual value, the source is required to obtain offsets. This regulation satisfies Section 173(1) of the Act and is approvable.

Subrule 22.5(2)b requires particulate matter offsets prior to start up for major source construction or modification in secondary particulate matter nonattainment areas, if offsets are reasonably available as identified in Subrules 22.5(4)c through i. This rule requires modeling to determine worst case ground level particulate matter concentrations if a major source is to be constructed in attainment or unclassified areas. Major sources constructed in attainment or unclassified areas may be required to obtain offsets if modeled maximum ground level concentrations in secondary TSP nonttainment areas are greater than 5 μ/m^3 on a 24 hour basis. This rule was approved on September 29, 1981 (46 FR 47546).

Subrule 22.5(2)d requires emissions offsets for major sources and major modifications for carbon monoxide (CO) emissions in CO nonattainment areas. This regulation satisfies Section 173(1) of the Act and is approvable. Offset requirements for particulate matter sources were approved on March 6, 1980 (46 FR 14561.)

Subrule 22.5(2)e requires that emissions offsets for any regulated air contaminant shall provide for reasonable further progress toward attainment of an applicable air quality standard and provide a net air quality benefit in an affected area. This is consistent with 40 CFR 51.18(j)(3)(i)(*a*) and is approvable.

Subrule 22.5(2)f requires emissions offsets from sources which become major because of an emission limit relaxation established after August 7, 1980, relating to capacity of the source such as a restriction on hours of operation. The offset rules would apply as if construction had not yet commenced. This is consistent with 51.18(j)(5)(ii) and is approvable.

Rule 22.5(4) identifies acceptable emission offsets. Subrule 22.5(4)a requires that the effect of the offset must be measured or predicted in the same area as the emissions of the major source or modification. This is consistent with the interpretive ruling in 40 CFR Part 51, Appendix S, Section IV.D, and is consistent with Section 51.18(j)(3)(ii)(*f*).

Subrule 22.5(4)b establishes an offset ratio of greater than 1:1 for areas other than primary particulate matter nonattainment areas and a minimum 1.25:1 for primary standard nonattainment areas. All such offsets must meet the reasonable further progress requirement of Subrule 22.5(2)e, discussed above. Subrule 22.5(4)b, therefore, meets the requirements of Section 173 of the Act.

Subrule 22.5(4)c allows offset credits for uncontrolled existing sources if there is an emission reduction below the source's potential to emit. To be creditable, such reductions must occur on or after January 1, 1978. This regulation is approvable because the Iowa attainment demonstration accounts for the full potential to emit of uncontrolled sources.

Subrule 22.5(4)d, *Greater control of existing sources*, allows offset credit for additional reductions at sources beyond the actual emissions of such sources on January 1, 1978, where such emissions are in compliance with SIP requirements. This would be available to offset emissions at a major source or major modification in or affecting a nonattainment area. The difference between the SIP required emissions and the new reduced rate would be available for offsets. This would not apply to emissions reduced to meet a SIP requirement after January 1, 1978. This rule is approvable.

Subrule 22.5(4)e allows credit for permanent controls of fugitive dust emissions. This rule is approvable.

Subrule 22.5(4)f allows offset credit for fuel switching provided there is a demonstration that the cleaner fuel will be available for at least five years. This rule is consistent with the requirements of § 51.18(j)(3)(ii)(*b*).

Subrule 22.5(4)g allows offset credit for reduced operating hours, if the reduced operating hours are included in the permit and the reduction occurred after January 1, 1978; and the work force is notified of the curtailment. This rule is inconsistent with § 51.18(j)(3)(ii)(*c*) because it does not provide that credit may be given for past curtailments only if the new source is a replacement for the curtailed source.

Subrule 22.5(4)h allows offsets credits for reduced operating capacity of an existing source provided the permit is amended to limit the operating capacity. This rule is approvable.

Subrule 22.5(4)i allows offset credit for closing of an existing source or plant. The source owner or operator is required to notify the work force of the proposed shutdown. This rule is inconsistent with § 51.18(j)(3)(ii)(*c*) because it does not provide that credit may be given for past shutdowns only if the new source is a replacement for the shutdown source.

Subrule 22.5(4)j allows external offsets, i.e., from sources not owned or controlled by a source seeking such offsets. Credit may be allowed provided the external source's permit is amended to require the reduced emissions or a consent order is entered into by the department and existing sources. This rule is not approvable because it does not contain provisions for making State issued consent orders federally enforceable, as required by § 51.18(j)(3)(ii)(*c*).

Subrule 22.5(5) authorizes banking of offsets in nonattainment areas. The amount of offsets which may be used is limited by the applicable offset ratio in subrule 22.5(4)b. The State retains the right to reduce or cancel banked offsets if the banked offsets are needed to show attainment of an applicable standard. This is consistent with Appendix S, Section IV.C.

Subrule 22.5(6) requires that major new or modified sources locating in nonattainment areas shall meet an emission rate shown to represent lowest achievable emission rate (LAER). This satisfies the requirement of section 173(2) of the Act.

Subrule 22.5(7) requires that owners or operators of major new sources or modified sources seeking to locate in a nonattainment area that have sources in other parts of the State be in compliance with existing emissions standards or on a schedule for compliance. This satisfies the requirement of section 173(3) of the Clean Air Act.

Subrule 22.5(8) requires alternate site analyses for sources of carbon monoxide seeking to locate in a carbon monoxide nonattainment area, if such an area did not attain the primary standard by December 31, 1982. This rule satisfies the requirement of Section 172(b)(11)(A) of the Clean Air Act, as amended.

Rule 900–22.6(455B) *Nonatttainment area designations* establishes criteria that the Water, Air and Waste Management Commission will follow when reviewing the status of Iowa nonattainment areas. EPA is not proposing any action on this rule because it is not a requirement of Section 110 of the Act.

Rule 900–22.7(455B) *Alternative emissions control program* was not submitted to EPA as a SIP revision; thus, EPA is not proposing action on this rule.

III. Proposed Action

Today's notice proposes to approve the regulations discussed above except those pertaining to anerobic lagoons Rule 900–22.6(455B).

EPA believes the preconstruction review regulations found in Chapter 22 of the WAWM regulations satisfy the requirements of section 173 of the Clean Air Act, as amended.

The State's definitions of "source" are contained in 900–22.5(1)g and 900–22.5(1)s. These definitions are consistent with EPA's "dual source" definition promulgated at 45 FR 52676 (August 7, 1980). On October 14, 1981 (46 FR 50766), EPA revised the definition of source for nonattainment areas to be consistent with the source definition for attainment mares, i.e., the "single source" definition. The EPA "single source" definition was challenged in the Appeals Court of the D.C. Circuit (*NRDC* v. *Gorsuch*, 685 F.2d 718 (1982)). The EPA "single source" definition was upheld by the U.S. Supreme Court on June 25, 1984 (Nos. 82–1005, 82–1247 and 82–1591).

Iowa's statutes prohibit the State's adoption of requirements more stringent than EPA's. However, the State's "dual source" definition was adopted prior to EPA's revised source definition of October 14, 1981. The definitions of source were not among the revisions adopted by the State on July 17, 1984. By letter of July 12. 1984, the State confirmed that the source definition is a dual source definition. The State indicated that a revision will be made at some future date. The State's letter also states it will interpret its source definition in a manner consistent with the Supreme Court decision when such an interpretation is reasonable.

EPA believes, however, that the State's definitions must be interpreted consistent with the dual definition, as adopted in the State regulations, until revised. EPA is proposing to approve the definitions on the understanding that Iowa will implement them consistent with the dual definition.

The definitions as written are more stringent that EPA's single source" definition. Therefore, EPA believes the State's rules 22.5(1)g ad 22.5(1)s are approvable.

The Iowa offset provisions in Rules 22.5(4)g and 22.5(4)i do not provide credit only for direct replacement of the curtailed or shutdown source by the new source as required by 40 CFR 51.18(j)(3)(ii)(*c*). The provisions of Rule 22.5(4)j do not contain a provision for making state issued consent orders federally enforceable.

On August 25, 1983 (48 FR 38742), EPA proposed revisions to 40 CFR Part 51 and Part 52 affecting *federal enforceability* and the *crediting of source shutdowns and curtailments* as offsets in nonattainment areas among other proposed changes. EPA proposed these changes in order to meet the terms of a settlement agreement between EPA and a number of industries and trade associations challenging the relevant EPA regulations. *Chemical Manufacturers Association* v. *EPA*, D.C. Cir. No. 79–1112 (Settlement agreement entered into February 22, 1982). Iowa Rules 22.5(4)g, 22.5(4)i and 22.5(4)j would be approvable when EPA finalizes the proposed rulemaking.

EPA proposes two alternative actions regarding the revised Iowa regulations in Chapter 22:

1. If the State provides a written commitment to follow the requirements of 40 CFR 51.18(j)(3)(ii)(c) until the CMA rulemaking is completed and revise Rules 22.5(4)g and 22.5(4)i to be consistent with § 51.18(j)(3)(ii)(c), if the existing provisions are not changed by CMA, and make provision for making state issued consent orders in Rule 22.5.(4)j federally enforceable, EPA will proceed to take final action approving the rules in Chapter 22 after the 30 day comment period or

2. EPA will delay final action on the State revised new source review and offset rules until after the EPA proposed revisions to 40 CFR Part 51 and Part 52 become final regulations. If the Iowa rules are consistent with the final regulations, EPA will proceed with a final rulemaking to approve the Iowa Chapter 22 rules.

Today's notice proposes to remove the moratorium on construction of new carbon monoxide sources in the Des Moines CO nonattainment area. This moratorium has been in effect since July 1, 1979.

Today's notice announces that the rules affecting air pollution control activities in the State of Iowa are now codified at Department 900, Title II, Chapter 20 through Chapter 39. This recodification became effective on July 1, 1983. EPA proposes to approve the recodification as part of the SIP. The recodification and EPA's approval would not change any substantive requirements of the SIP, but would merely add Iowa's revised numbering system to the SIP.

EPA solicits comments from the public on today's proposed rulemaking. EPA will consider all such comments received 30 days from publication.

Under 5 U.S.C. section 605(b), I certify this action, if promulgated, would not have a significant economic impact on a substantial number of small entities. It imposes no new regulatory requirements, because it would only approve State regulations.

Under Executive Order 12291, today's action is not "major". It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act, as amended,) (42 U.S.C. 7410 and 7472))

Dated: August 2, 1984.

Morris Kay,

Regional Administrator.

[FR Doc. 84–30422 Filed 11–19–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[EPA Docket No. AM061MD; A-3-FRL 2721-6]

Proposed Approval of Revisions to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Maryland Air Management Administration (MAMA) has submitted a proposed revision to the Maryland State Implementation Plan (SIP) in the form of a Secretarial Order (by Consent) for the American Cyanamid Company. The Order provides the Company with a Plan for Compliance (PFC) and an alternative method of assessing compliance for certain installations located at the plant by allowing the averaging or "bubbling" of volatile organic compound (VOC) emissions over a 24-hour period. This Notice summarizes the Order and proposes EPA approval.

DATE: EPA must receive any comments on or before December 20, 1984.

ADDRESSES: Copies of documents relevant to this proposed action are available for review at the following addresses.

U.S. Environmental Protection Agency, Region III, Air Management Division, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106

Maryland Department of Health and Mental Hygiene, Air Management Administration, 201 West Preston Street, Baltimore, MD 21201

Written comments should be sent to: David L. Arnold, Chief, Delmarva/DC Section, U.S. Environmental Protection Agency, Region III, Air Management Division, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. 3AM13, 215/597-4553 at the EPA, Region III address indicated above.

SUPPLEMENTARY INFORMATION:

Background

The American Cyanamid Company (the Company), located in Harve de Grace, Maryland operates adhesive manufacturing and application installations. It is located in the Metropolitan Baltimore Intrastate Air Quality Control Region which is designated as an extension/nonattainment area for ozone (O_3). The ambient O_3 standard is to be achieved by December 31, 1987 for the area's approved Part D plan as discussed in 48 FR 5048 and 49 FR 8610. As stated in the Order, the installations at the Harve de Grace plant include paper and fabric adhesive coating towers, a honeycomb core print line, and a corrugating line. The plant also has adhesive mixing facilities.

The paper and fabric adhesive coating operation consists of tower #2, tower #3, and tower #5, and the FM-1000 coater/dryer, all of which are subject to the requirements of COMAR 10.18.21.07, *Paper, Fabric, and Vinyl Coating.*

This regulation defined emission standards which were to be achieved by December 31, 1982. The Company has achieved significant reductions in VOC emissions by means of reformulation, solvent substitution, converson to hot melt adhesives, and the installation of new equipment. These activities have reduced the Company's VOC emissions from 182.1 tons per year in 1980 to 99.7 tons per year in 1983. The Company has determined that there are no low solvent coatings available for the remainder of their existing coatings, and has requested that they be allowed to average or "bubble" their emissions from the 3 towers and the coater/dryer to achieve compliance. The subject of this SIP revision is the State Secretarial Order for the Company that provides a new PFC and an alternative method of assessing compliance under COMAR 10.18.21.02.C(1). This alternative method, or "bubble", consists of calculating the daily production weighted average of actual VOC emissions from the 3 towers and the coater/dryer. The Company will be considered out of the compliance if this calculated 24-hour average of allowable VOC emissions is greater than the calculated 24 hour average of allowable VOC emissions for that same time period.

The Company shall calculate *actual* emissions from these installations for each day (24 hour period) that any of the installations are in operation based on actual production rates, coating solids contents, and maximum VOC contents. The Company shall register with the MAMA by submitting a list of all production coatings and their maximum VOC solvent contents as applied and maximum application rates that are to be used in each of the 4 processes. The Company will also be considered out of compliance each time a coating's solvent content or application rate exceeds the value registered by the Company for that coating.

Prior to June 1, 1985 the Company shall calculate allowable emissions on the basis that each coating complies with an emission standard of 3.2 pounds of VOC per gallon of coating applied minus water and exempt solvent. Beginning June 1, 1985, allowable emissions shall be calculated on the basis that each coating complies with the applicable emission standard of COMAR 10.18.21.07B (2.9 pounds of VOC per gallon of coating applied minus water and exempt solvent). The Company has requested the interim standard of 3.2 pounds of VOC per gallon of coating in order to allow time for adjusting their production schedules to meet the requirements of the bubble. The Company is in full and continuous compliance with this Order at the present time.

The Company shall calculate daily actual and allowable emissions from the towers and coater/dryer and submit a summary report to the MAMA on a quarterly basis. The summary report shall show for each reporting period each calculated 24-hour average of actual VOC emissions and each calculated 24-hour average of allowable VOC emissions. The Company shall also identify which exempt solvents are being utilized in their coatings. The proposed method for determining compliance is consistent with EPA's Can Coating Operation Policy statement as discussed in the December 8, 1980 **Federal Register** (45 FR 80824).

EPA Evaluation

Based on our review of this Secretarial Order, EPA is today proposing to approve it as a SIP revision. The State of Maryland has certified that, after adequate public notice, a public hearing was held on May 23, 1984 with respect to this SIP revision in Baltimore, Maryland.

The Company has maintained Reasonable Further Progress in achieving compliance with Maryland's COMAR regulations. VOC emissions have been reduced from 182.1 tons per year in 1980, to 99.7 tons per year in 1983 and will be reduced further to 92.7 tons per year in 1985, whereupon compliance will be achieved. EPA agrees that June 1, 1985 is the earliest practical date to achieve compliance. This extension of time to achieve compliance will not jeopardize attainment of the O_3 standard by 1987.

Based on the fact that the Company will achieve significant reductions in VOC emissions between 1980 and 1985, and on the fact that no further reductions in VOC emissions are required after 1985 in order for the Company to achieve compliance, EPA has determined that this compliance schedule is expeditious. This is further supported by the fact that the Company is not in compliance with the requirements of the Secretarial Order.

In addition, EPA is proposing to approve this Secretarial Order as a SIP

revision with the understanding that the Company will subtract out exempt solvents according to accepted EPA methodology when they are calculating pounds of VOC emissions per gallon of coatings.

Conclusion: The Regional Administrator's decision to propose approval of the Order is based on a determination that the SIP revision meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Public is invited to submit, to the address stated above, comments on whether the proposed revision to the State of Maryland's SIP should be approved.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review. Pursuant to the provisions of 5 U.S.C. 605(b), the Regional Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1982).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. (Sections 7401–7642).

Dated: September 28, 1984.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84–30421 Filed 11–19–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–1–FRL 2721–4]

Approval and Promulgation of Implementation Plans; New Hampshire; New Source Review Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Part Air 610 of Chapter 600, "Statewide Permit System" of the New Hampshire State Implementation Plan (SIP). These revisions amend New Hampshire's regulations for the preconstruction permitting of new major sources and major modifications in nonattainment areas in accordance with Part D of the Clean Air Act. The intended effect of this action is to propose approval the amended New Hampshire regulations as revisions to the SIP under section 110 of the Clean Air Act.

DATE: Comments must be received on or before December 20, 1984.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2313, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Bldg., Boston, MA 02203 and at the New Hampshire Air Resources Commission, Health and Welfare Bldg., Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Marcial L. Spink (617) 223–4868, FTS 223–4868.

SUPPLEMENTARY INFORMATION: On April 9, 1984 and September 10, 1984 the New Hampshire Air Resources Commission (NHARC) submitted revisions to Part Air 610 of Chapter 600, "Statewide Permit System" of the New Hampshire SIP. These revisions amend New Hampshire's regulations for the preconstruction permitting of new major sources and major modifications in nonattainment areas.

EPA's review of these new source review (NSR) revisions indicates that they meet the requirements of 40 CFR 51.18 in accordance with sections 172(b)(b) and 173 of the Clean Air Act.

The New Hampsire NSR revisions incorporate by reference the definitions of 40 CFR 51.18(j)(1), revised as of July 1, 1982, except for the definition of "stationary source." The definition of that term that was published in the **Federal Register** on August 7, 1980 (45 FR 52743) is employed in the New Hampsire SIP for NSR purposes. New Hampsire's intent is that the so-called "dual definition" of stationary source be in effect in New Hampshire. However, the definition of stationary source *alone* does not accomplish this intent. In order to have the "dual definition" of stationary source, the definitions of the terms "building, structure, facility" and the term "installation" as specified in 45 FR 52743 must also be employed as those terms are contained *within* the stationary source definition and are integral to its meaning. NHARC has informed EPA by letter dated September 10, 1984 that the Air Resources Commission shall interpret the adopted language of Air 610.01 to mean that the definitions of the terms building, structure, facility and the term installation as specified in 45 FR 52743 must also be used in conjunction with the definition of stationary source, specified in the same **Federal Register** of August 7, 1980, in order to carry out the intended use of the "dual definition" of stationary source for NSR purposes. Therefore, under the State's NSR plan both the entire plant and each individual piece of air pollution emitting equipment within the plant are considered to be stationary sources. Use of the "dual definition" of stationary source within a SIP for NSR purposes is approvable by EPA. NHARC's September 10, 1984 letter is part of the SIP revision EPA today proposes to approve.

The definition of "building, structure, facility" in the New Hampshire rules exempts the activities of any vessels from applicability determinations. This is not approvable under the court decision in *NRDC* v. *Gorsuch*, D.C. Cir. No. 81–2201. However, the definition of "building, structure, facility" contained in 45 FR 52743 which New Hampshire has indicated it intends to use under its dual definition does include vessel activities. EPA proposes to approve the New Hampshire rules on the specific understanding that New Hampshire does intend to include vessel activities in all applicability determinations.

New Hampshire's NSR program does not require offsets for sources of VOC or other hydrocarbons. This is federally approvable under EPA's rural ozone policy.

A more detailed evaluation of New Hampshire's NSR requirements is provided in a memorandum dated october 1, 1984 entitled, "New Hampshire NSR Plan." Copies of that memorandum are available upon request from the EPA Regional Office specified in the **ADDRESSES** section of this notice.

Proposed Action: EPA is proposing to approve revisions submitted in April 9, 1984 and September 10, 1984 by the NHARC amending the New Hampshire SIP requirements for the preconstruction permitting of new major sources and major modification in nonattainment areas.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.18. These

revisions are being proposed pursuant to sections 110(a) and 301(a) of the Clean Air act, amended (42 U.S.C. 7410 (a) and 7601 (a)).

Dated: October 1, 1984.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 84-30423 Filed 11-19-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Docket Nos. 84-689 and 84-690]

Allocating Spectrum for, and Establishing Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: The Commission has extended the time for filing comments and reply comments in this proceeding concerning a Radiodetermination Satellite Service. This action is taken in response to several requests.

DATES: Comments are now due by December 17, 1984 and replies by January 17, 1984.

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

FOR FURTHER INFORMATION CONTACT: Fern Jarmulnek, (202) 634-1682.

SUPPLEMENTARY INFORMATION: The Proposed Rule in this proceeding was published on September 18, 1984 on page (49 FR) 36512.

In the matter of amendment of the Commission's rules to allocate spectrum for, and to establish other rules and policies pertaining to, a radiodetermination satellite service, Gen. Docket No. 84-689, RM-4426; in the matter of policies and procedures for the licensing of space and earth stations in the radiodetermination satellite service, Gen. Docket No. 84-690; in the matter of the applications of Geostar Corporation For Authority to Construct, Launch and Operate Space Stations in the Radiodetermination Satellite Service, File Nos. 2191-DSS-P/LA-83 2192-DSS-P/LA-83 2193-DSS-P/LA-83 2194-DSS-P/LA-83.

Adopted: November 8, 1984.

By the Chief, Common Carrier Bureau.

Several requests to modify the application filing and processing procedures adopted in the above-captioned proceeding have been received. To provide sufficient time to resolve these issues, the filing dates are extended as follows pursuant to § 0.291 of the Commission's rules on delegations of authority:

Applications for radiodetermination satellite systems to be considered concurrently with those of Geostar Corporation may be filed on or before December 3, 1984.

Comments with respect to Gen. Docket Nos. 84-689 and 84-690 may be filed on or before December 17, 1984. Reply comments may be filed on or before January 17, 1985.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 84-30407 Filed 11-19-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Pityopsis Ruthii (Ruth's Golden Aster)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list *Pityopsis ruthii* (Ruth's golden aster), a plant endemic to Polk County, Tennessee, as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. *Pityopsis ruthii* is endangered by water quality degradation, toxic chemical spills, water level and flow regime alterations, and potentially from trampling associated with recreational use of its habitat. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Pityopsis ruthii*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by January 22, 1985. Public hearing requests must be received by January 4, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to Mr. Warren T. Parker, Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Pityopsis ruthii was first collected by Albert Ruth, a Knoxville botanist, near the Hiwassee River in Polk County, Tennessee. Ruth often visited this area between 1894 and and 1902 and collected this unusual plant on several occasions (Bowers, 1972a). J. K. Small (1897) named the species in honor of Ruth, including it in the genus *Chrysopsis* in his original description. In 1933, Small transferred the species to the genus *Pityopsis*. Several alternative taxonomic treatments have been proposed for this and associated species (Harms, 1969; Bowers, 1972b; Cronquist, 1980; Semple *et al.*, 1980). Regardless of which genus (*Pityopsis, Heterotheca* or *Chrysopsis*) the species is included in, all authors have recognized the specific distinctness of this unique plant. The inclusion of this species in the genus *Pityopsis*, as advocated by Semple *et al.* (1980), is widely supported and is followed here.

Following Ruth's original collections, *Pityopsis ruthii* was not collected again for almost 50 years. Harms (1969) speculated that the species might be extinct. Bowers (1972a) reported that *Pityopsis ruthii* had been rediscovered on the Hiwassee River by himself and two other Knoxville botanists and stated that W. J. Dress had also collected the species in 1953. The Dress collection had not been reported in the literature, and his collections were housed in herbaria outside the region. This resulted in a 19-year lapse in knowledge of Dress' discovery. In 1976, A. White discovered a small population of *Pityopsis ruthii* on the Ocoee River, Polk County, Tennessee (White, 1978). Despite searches of apparently suitable habitat on the adjacent Tellico and Conasauga River systems by White (1977), and Wofford and Smith (1980), *Pityopsis ruthii* is only known to occur on short reaches of the Ocoee and Hiwassee Rivers.

Pityopsis ruthii is a fibrous-rooted perenial which grows only in the soil-filled cracks of phyllite boulders in and adjacent to the Ocoee and Hiwassee Rivers. The stems are from one to three decimeters tall and bear long narrow leaves covered with silvery hairs. The yellow flowers appear in a paniculate infloresence in late August and

September. Its fruits (achenes) develop a few weeks after the flowers fade (Wofford and Smith, 1980).

Federal Government actions on this species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) [now section 4(b)(3)] of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Pityopsis ruthii* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the April 26, 1978, **Federal Register** (48 FR 17909) publication, which also determined 13 plant species to be endangered or threatened species. On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing the June 16, 1976, proposal along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82479); *Pityopsis ruthii* was included in that notice as a category-1 species. Category-1 species are those for which data in the Service's possession indicate listing is warranted.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Pityopsis ruthii* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Pityopsis ruthii* was warranted, and that although other pending proposals had precluded its proposal, expeditious progress was being made to add this and other species to the list. Notice of this finding was published in the **Federal Register** on January 20, 1984 (49 FR 2485). Publication of the present proposal constitutes the Service's finding that the petitioned action is warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Pityopsis ruthii* (Small) Small (Ruth's golden aster) [SYN: *Chrysopsis ruthii* Small and *Heterotheca ruthii* (Small) Harms], are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The two known populations of *Pityopsis ruthii* occur on short reaches of rivers in which water regimes are controlled by upstream dams. The dams are operated by the Tennessee Valley Authority. Natural water flows in the Hiwassee River, through the area where the species occurs, have been basically eliminated since construction of the Appalachia Dam in 1943 (White, 1977). Water usually bypasses this area through a large pipeline between the dam and the powerhouse which is located several miles downstream of the dam. Apart from temporary releases to flush toxic chemical spills from the river, the prime source of water for this river reach is inflow from small tributaries and surface runoff from the adjacent slopes (Wofford and Smith, 1980; Parrish, 1981). This elimination of natural flow cycles with annual scouring of the boulders on which *Pityopsis ruthii* grows has permitted more competitive species to invade the boulders and encroach and overshadow the riverbanks (White, 1977). *Pityopsis ruthii* has little shade tolerance and is replaced by other species when sunlight is reduced by 50 percent (Wofford and Smith, 1980; White, 1977). *Pityopsis ruthii* has adapted to and is not displaced by the high water flows which periodically remove this more competitive vegetation and scour the rocks and riverbanks. If present trends continue it would appear that *Pityopsis ruthii* will eventually be displaced from the Hiwassee River.

The Ocoee River population of fewer than 500 plants (Wofford and Smith, 1980) appears to be subject to detrimental impacts of flood stage flows during the growing season. Present water management on the Ocoee River results in frequent releases that approximate the high flow conditions that would naturally occur only a few times per year. Although periodic high flows appear to be essential for maintenance of the *Pityopsis ruthii* habitat, the regular high flows on the Ocoee River may be exceeding the species' capability to withstand this normally beneficial action. A closer correlation between water management and the needs of *Pityopsis ruthii* is needed.

B. *Overutilizaion for commercial, recreational, scientific, or educational purposes.* Current recreational use of the Hiwassee River is limited to hiking and fishing on the banks adjacent to the *Pityopsis ruthii* population. Current levels of activity do not appear to be adversely affecting the species. Should levels of these activities increase in the future, they could threaten the species if they are not managed in a way which minimizes direct impacts such as trampling. Recreational use of the Ocoee River primarily consists of white-water sports like rafting. Since this activity takes place in the river, it would not appear to be impacting *Pityopsis ruthii* at this time. Observers and photographers of these white-water activities have trampled Ruth's golden aster in the past (Collins, pers. comm., 1984). *Pityopsis ruthii* is not currently in commercial trade as an ornamental plant. However, Farmer (1977) indicates that the species was excellent potential for horticultural use and public awareness of the species could generate a demand.

C. *Disease or predation.* Not applicable to this species at this time.

D. *The inadequacy of existing regulatory mechanisms.* Although there is no legislation in the State of Tennessee which provides protection for *Pityopsis ruthii*, the Committee for Tennessee Rare Plants (1978) recognizes the species as an endangered component of the State's flora. The Tennessee Department of Conservation also recognizes Ruth's golden aster as endangered in its current (1984) revision of the Official Rare Plant List of Tennessee issued pursuant to the Governor's Executive Order on March 7, 1980, and compiled with the assistance

of a scientific advisory committee and with other public input. Removal of plants without a permit from the National Forest is prohibited by regulation. However, this regulation is difficult to enforce. The Endangered Species Act would provide additional protection for the species..

E. *Other natural and manmade factors affecting its continued existence.* Water quality in the Ocoee River is drastically reduced on a regular basis because of mining activities in the Copperhill area, upstream of the *Pityopsis ruthii* population. Sediment levels are generally high, and acidity levels as low as pH 1.2 have been recorded in the Ocoee River (White, 1977). These water quality problems have adversely impacted the aquatic fauna of this reach of the Ocoee River and are probably adversely affecting the *Pityopsis ruthii* population.

Several spills of toxic chemicals (sulfuric acid) have occurred on the Hiwassee River. In order to flush these chemicals from the river, releases from the Appalachia Dam have been made. These releases have resulted, on at least one occasion (1976), in a loss of seed production for the year (White, 1977).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Pityopsis ruthii* as endangered. With only two populations of this species known to exist, it definitely warrants protection under the Act; endangered status seems appropriate because of the threats facing both populations. Critical habitat is not being designated for reasons discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the speicies which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Pityopsis ruthii* at this time. The species has high potential for horticultural use. Increased publicity and the provision of specific location information associated with critical habitat designation could result in taking pressures on Ruth's golden aster. Although removal and reduction to possession of endangered plants from lands under Federal jurisdiction is prohibited by the Endangered Species Act, such provisions are difficult to enforce effectively. Publication of critical habitat descriptions would make *Pityopsis ruthii* more vulnerable and would increase enforcement problems for the U.S. Forest Service. Increased visits to both populations stimulated by critical habitat designation could also result in trampling problems. Both of the federal agencies involved in managing the habitat of Ruth's golden aster have been informed of the locations of this species and of the importance of protecting it, so no additional benefits from the notification function of critical habitat designation would result. Therefore, it would not be prudent to determine critical habitat for *Pityopsis ruthii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition and cooperation with the States and requires that recovery actions be carried out for listed species. Such actions are intitiated by the Service following listing. The protection required of Federal agencies and the applicable prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requres Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existance of a proposed species. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service (Cherokee National Forest) and the Tennessee Valley Authority have jurisdiction over this species' habitat or essential components of its habitat. Federal activities that could impact *Pityopsis ruthii* and its habitat in the future include, but are not limited to, the following: management of flow regimes and water levels on the Ocoee and Hiwassee Rivers, timber harvesting, recreational development, channel alterations, road and bridge construction, permits for mineral exploration, and implementation of forest management plans. It has been the experience of the Service that the large majority of Section 7 consultations are resolved so that the species is protected and the project can continue.

The Tennessee Valley Authority, through its Natural Heritage Program, was notified on July 27, 1984, of the Service's intent to propose Ruth's golden aster as endangered, and will provide its comments during the official comment period. The Supervisor of the Cherokee National Forest has been contacted, as well as the Forest Service's Regional Forester (through the Regional Botanist in Atlanta); both have indicated they will comment on the proposal during the official comment period.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Pityopsis ruthii*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition will apply to *Pityopsis ruthii*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417). Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife

Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be as accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Pityopsis ruthii;*

(2) the location of any additional populations of *Pityopsis ruthii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) additional information concerning the range and distribution of this species; and

(4) current or planned activities in the subject area and their possible impacts on *Pityopsis ruthii.*

Final promulgation of the regulation on *Pityopsis ruthii* will take into consideration the comments and any additional information received by the Sevice, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Request must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Endangered Species Field Station (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Bowers, F.D. 1972a. The existence of *Heterotheca ruthii* (Compositae). Castanea 37:130–132.

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Farmer, R.E., Jr. 1977. Seed Propagation of *Heterotheca ruthii.* Castanea 42:146–148.

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Heifetz, J., and W.L. Milstead. 1979. Status report for *Heterotheca ruthii.* Unpublished report by Southeast Region, U.S. Fish and Wildlife Service, Atlanta, GA.

Parrish, L.L. 1981. Personal communication by letter to Mr. Dick Biggins (Biologist with the Endangered Species Field Station in Asheville, North Carolina) regarding river flows in the Hiwassee River.

Semple, J.C., V.C. Blok, and P.P. Heiman. 1980. Morphological, anatomical, habit and habitat differences among the golden aster genera *Chrysopsis, Heterotheca, Pityopsis* (Compositae-Asteraceae). Canadian Journal of Botany 58:147–163.

Small, J.K. 1897. Studies in the botany of the Southeastern United States. XII. Bulletin of the Torrey Botanical Club 24:493.

Small, J.K. 1933. Manual of the Southeastern flora. Published by the author, New York, NY. P. 1341.

White, A.J. 1977. An autecological study of the endangered species, *Heterotheca ruthii* (Small) Harms. M.S. Thesis, University of Tennessee, Knoxville, TN. 73 pp.

White, A.J. 1978. Range extensions of the proposed endangered plant, *Heterotheca ruthii* (Compositae). Castanea 43:263.

Wofford, B.E., and D.K. Smith. 1980. Status report for *Heterotheca ruthii* (Ruth's golden aster). Unpublished report prepared under contract for the U.S. Fish and Wildlife Service, Atlanta, GA.

Author

The primary author of this proposed rule is Mr. Robert R. Currie, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 8/672–0321). Preliminary status information was provided by Mr. J. Heifetz and Dr. W. C. Milstead, formerly of the Service's Southeastern Regional Office, Atlanta, Georgia.

List of Subjects in 50 CFR Part 17

Endangered and threatened Wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, under the family Asteraceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family						
. . . . .						
Pityopsis ruthii (SYN: *Heterotheca ruthii* and *Chrysopsis ruthii*)	Ruth's golden aster	U.S.A. (TN)	E		NA	NA
. . . . .						

Dated: November 5, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–30459 Filed 11–19–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 225
Tuesday, November 20, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Natural Resource Management Guide Meeting

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration (FmHA) State Office located in Raleigh, North Carolina, is announcing a public information meeting to discuss its draft Natural Resource Management Guide.

DATES: Meeting on December 20, 1984, 1:00 p.m. to 4:00 p.m. Comments must be received no later than January 19, 1985.

ADDRESSES: Meeting location at Room 209, Federal Building, 2310 New Bern Avenue, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Written comments and further information will be addressed to: State Director, FmHA, 310 New Bern Avenue, Raleigh, North Carolina 27601 (919–755–4640).

All written comments will be available for public inspection during regular work hours at the above address.

SUPPLEMENTARY INFORMATION: FmHA's North Carolina State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and State levels and the affect the financing of FmHA activities in North Carolina. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: November 14, 1984.

David J. Howe,

Director, Program Support Staff.

[FR Doc. 84–30447 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Bridger-Teton National Forest Grazing Advisory Board; Meeting

The Bridger-Teton National Forest Grazing Advisory Board will meet at 1:00 p.m., December 12, 1984, in the Conference Room of the Sublette County Library, Pinedale, Wyoming. The purpose of this meeting is to discuss utilization of range betterment funds and the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor Reid Jackson, Box 1888, Jackson, Wyoming 83001, telephone (307) 733–2752. Written statements may be filed with the board before or after the meeting.

The board has established the following rules for public participation:

1. If a group wishes to be heard at the meeting, they are required to select a chairman to voice their ideas.

2. Persons or groups may send written statements to the Forest Supervisor for presentation at the meeting.

3. The Chairman of the Forest Grazing Advisory Board will set aside a time period on the agenda for public comment.

Dated: November 8, 1984.

Reid Jackson,

Forest Supervisor.

[FR Doc. 84–30419 Filed 11–19–84; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Oregon Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules; and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on December 14, 1984, at the City Hall, Room A, 1120 S.W. 5th Street, Portland, Oregon 97204. The purpose of the meeting is to plan for future programs.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Northwestern Regional Office at (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 15, 1984.

John I. Binkley,

Advisory Committee Manageament Officer.

[FR Doc. 84–30338 Filed 11–19–84; 8:45 am]

BILLING CODE 6335–01–M

Rhode Island Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission orginally scheduled for November 20, 1984, at Providence, Rhode Island (FR Doc. 84–29677 on page 44935) has a new meeting date.

The meeting will be held on November 27, 1984. The address and time will remain the same.

Dated at Washington, D.C., November 15, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–30339 Filed 11–19–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for

the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1985 Post Enumeration Survey
Form Numbers: Agency—DB–1300 and DB–1302; OMB—None
Type of Request: New collection
Burden: 6,000 respondents; 2,000 reporting hours
Needs and Uses: The Post Enumeration Survey (PES) consists of a sample of blocks that will be completely listed and matched to the 1985 Pretest Census in Tampa, Florida. This survey is being conducted as part of the planning activities for the 1990 Decennial Census. The persons listed in the PES who do not match to the census will estimate census omissions and persons not in the PES will estimate erroneous enumerations. The difference is the estimate of net undercount.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395–4814

AGENCY: Bureau of the Census
TITLE: Census Employment Inquiry
FORM NUMBERS: Agency—BC–170; OMB—0607–0139
TYPE OF REQUEST: Revision of a currently approved collection
BURDEN: 20,000 respondents; 5,000 reporting hours
NEEDS AND USES: During 1985 the Census Bureau will need to hire numerous short-term, temporary workers to conduct the 1985 Pretests and other special censuses. This form will be used to collect personal information, such as work experience, from job applicants. The forms will be reviewed by selecting officials to determine the applicants' qualifications for the job.
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503

Dated: November 14, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84–30437 Filed 11–19–84; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of the Census

Coverage Under the Voting Rights Act Amendments of 1982; Wisconsin; Correction

AGENCY: Bureau of the Census, Commerce.

ACTION: Correction; Voting Rights Act Amendments of 1982, Determinations under Title III (OFR, Vol. 49, No. 123, June 25, 1984).

SUMMARY: This document corrects the determination of the language covered in two towns in Wisconsin. Both towns were designated for coverage under the Voting Rights Act Amendments of 1982 because of the number of American Indians in the town who were of a single language minority who reported speaking a language other than English at home and who do not speak English well enough to participate in the electoral process. In producing the list of determinations, the specific American Indian language covered in the towns was shown incorrectly.

Incorrect Statement

Political subdivision	Single language minority
Wisconsin	
Couderay Town (Sawyer County).	American Indian (Winnebago)
Komensky Town (Jackson County).	American Indian (Ojibwa)

Correct Statement

Political subdivision	Single language minority
Wisconsin	
Couderay Town (Sawyer County).	American Indian (Ojibwa)
Komensky Town (Jackson County).	American Indian (Winnebago)

FOR FURTHER INFORMATION CONTACT: Edith K. McArthur, Population Division, U.S. Bureau of the Census, Washington, D.C. 20233, telephone (301) 763–5158.

Dated: November 14, 1984.

John G. Keane,

Director, U.S. Bureau of the Census.

[FR Doc. 84–30412 Filed 11–19–84; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held December 6, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377–4217. For further information contact Mrs. Margaret A. Cornejo (202) 377–5542.

Dated: November 14, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84–30436 Filed 11–19–84; 8:45 am]

BILLING CODE 3510–DT–M

Joint Meeting of the Computer Systems Technical Advisory Committee, Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, and Electronic Instrumentation Technical Advisory Committee; Closed Meeting

A joint meeting of the Electronic Instrumentation Technical Advisory Committee, the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee and the Computer Systems Technical Advisory Committee will be held December 7, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committees advise the Office of Export

Administration with respect to technical question which affect the level of export controls applicable to electronic instrumentation, computer systems or technology.

The Committees will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

Copies of the Notice of Determination to close meetings or portions thereof are available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo 202–377–2583.

Dated: November 14, 1984.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 84–30435 Filed 11–19–84; 8:45 am]

BILLING CODE 3510–DT–M

National Bureau of Standards

[Docket No. 41028–4128]

Proposed Revision of FIPS COBOL

Under the provisions of Public Law 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. A revision of Federal Information Processing Standards (FIPS) COBOL (FIPS PUB 21–2) is being proposed for Federal use.

The purpose of the proposed revision is to: (1) Adopt American National Standard Programming Language, COBOL, X3.23–198 as FIPS COBOL, (2) make the goals of the FIPS more definitive, (3) recognize advances in programming technology, (4) provide more specific guidance concerning the applicability for each language, and (5) provide consistent policy for all the FIPS languages.

Prior to the submission of this proposed revised standards to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs of, impact on, and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Comments concerning the adoption of this proposed revision are invited and may be sent to Director, Institute for Computer Sciencies and Technology, ATTN: Proposed FIPS COBOL, National Bureau of Standards, Gaithersburg, MD 20899. To be considered, comments on this proposed action must be received on or before March 20, 1985.

Written comments received in response to this notice plus written comments obtained from Federal departments and agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

Persons desiring further information about this proposed revision may contact, Ms. Mabel Vickers, Data Management and Programming Languages Division, Center for Programming Sciencie and Technology, Institute for Computer Sciencie and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301/921–2431.

Dated: November 14, 1984.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 21–2

(date)

Announcing the Standard for COBOL

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Service Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* COBOL (FIPS PUB 21–2).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard Programming Language, COBOL, X3.23–198, as amplified herein as a Federal Information Processing Standard (FIPS). This revision supersedes FIPS PUB 21–1 and reflects major changes and improvement in the COBOL specifications. It also contains changes to the Objectives, Applicability, and Implementation portions of FIPS COBOL to recognize advances in programming technology and to provide consistent policy for all FIPS languages. The American National Standard defines the elements of the COBOL programming language and the rules for their use. The purpose of the standard is to promote portability of COBAL programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers and by users who need to know the precise syntactic and semantic rules of the standard language.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard Programming Language COBOL, X3.23–198.

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201.36.1310, Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents, Federal Information Processing Standards (FIPS) Programming Languages.

b. Federal Information Processing Standards Publication 29.1, Interpretation Procedures for Federal Information Processing Standards Programming Languages.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—to encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—to reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;
—to reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;
—to protect the existing software assets of the Federal government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS COBOL is one of the high level programming language standards provide for use by all Federal departments and agencies. FIPS COBOL is especially suited for applications that emphasize the manipulation of characters, records, files, and input/output (in contrast to those primarily concerned with scientific and numeric computations).

b. The use of EIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.
—The application of program is under constant review for updating of the specifications, and changes may result frequently.
—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.
—The program will or might be run on equipment other than that for which the program is initially written.
—The program is to be understood and maintained by programmers other than the original ones.
—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.
—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of report generation, database management, or text processing languages. The use of any facility should be considered in the context of system life, system cost, and potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a COBOL source program, then the resulting program should conform to the conditions and specifications of FIPS COBOL.

10. *Specifications.* FIPS COBOL specifications are the language specifications contained in American National Standard Programming Language COBOL, X3.23–198–.

The X3.23–198– document specifies the form of a program written in COBOL, formats for data, and rules for program and data interpretation.

The standard does not specify limits on the size of programs, minimum system requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

In addition, the following requirements apply:

a. For purposes of FIPS COBOL, the modules defined in X3.23–198– are combined into three subsets and four optional modules. The three subsets of FIPS COBOL are identified as Minimum, Intermediate, and High. The four optional modules are Report Writer, Communications, Debug, and Segmentation. These four optional modules are not in integral part of any of the subsets; however, none, all, or any combination of the optional modules may be associated with any of the subsets.

The high subset is composed of all language elements of the highest level of all required modules. The intermediate subset is composed of all language elements of level 1 of all required modules. The minimum subset is composed of all language elements of level 1 of the Nucleus, Sequential I–O, and Inter-Program Communication modules.

The following table reflects the composition of the required subsets and the relationship of the subsets and the optional modules. The numbers in the table refer to the level within a module as designated in X3.23–198–, and a dash denotes the corresponding module is omitted or may be omitted.

Modules	COBOL Subsets		
	Minimum	Intermediate	High
Required			
Nucleus	1	1	2.
Sequential I–O.	1	1	2.
Relative I–O.	–	1	2.
Indexed I–O.	–	1	2.
Inter-Program Communication.	1	1	2.
Sort-Merge.	–	1	2.
Source Text Manipulation.	–	1	2.
Optional			
Report Writer.	–, 1, or 2	–, 1, or 2	–, 1, or 2.
Communication.	–, 1, or 2	–, 1, or 2	–, 1, or 2.
Debug.	–, 1, or 2	–, 1, or 2	–, 1, or 2.
Segmentation.	–, 1, or 2	–, 1, or 2	–, 1, or 2.

b. A facility should be available in the compiler for the user to optionally specify monitoring of his source program at compile time. The monitoring may be specified for a subset of FIPS COBOL, for any of the optional modules, for the obsolete language elements contained within the selected subset and optional modules, or for any combination of subset, optional modules and obsolete elements. The monitoring may be specified for any subset at or below the highest subset for which the compiler is implemented and for any optional module at or below the level of the optional module for which the compiler is implemented. The monitoring is an analysis of the syntax used in the source program against the syntax included in the user selected FIPS COBOL subset or optional modules. Any syntax used in the source program that does not conform to that included in the user selected FIPS COBOL subset and optional modules will be diagnosed and identified to the user through a message on the source program listing. The message provided will identify:

—The clause, statement or header that directly contains the non-conforming syntax. (For the purpose of this requirement the definitions contained in American National Standard Programming Language COBOL, X3.23–198_, section III, Glossary apply.)
—The source program line which contains the non-conforming syntax

and the beginning location of the syntax within the line.

—The FIPS COBOL subset or optional module level required to support the non-conforming syntax if the non-conforming syntax is within a higher subset or higher level of an optional module included in compiler.

—The syntax as "non-conforming," if the non-conforming syntax is within FIPS COBOL subsets or optional module levels that are not included in the compiler or the non-conforming syntax is non-standard COBOL.

—The syntax as "obsolete" if the syntax identified is in the obsolete category in a subset or optional module included in the compiler.

11. *Implementation.* The implementation of FIPS COBOL involves three areas of consideration: acquisition of COBOL compilers, interpretation of FIPS COBOL, and validation of COBOL compilers.

11.1 *Acquisition of COBOL Compilers.* This publication is effective (date of publication of final document in the **Federal Register**). COBOL compilers acquired for Federal use after this date should implement at least one of the required subsets of FIPS COBOL. If the functionality of one or more of the optional modules meet programmatic requirements, then those optional modules also should be acquired. Conformance to FIPS COBOL should be considered whether COBOL compiles are developed internally, acquired as part of an ADP system procurement, acquired by separate procuremnt, used under an ADP leasing management, or specified for use in contracts for programming services.

A transition period provides time for industry to produce COBOL compilers conforming to the standard. The transition period begins on the effective date and continues for eighteen (18) months thereafter. The following apply during the transition period:

a. The provisions of FIPS PUB 21–1 apply to compilers ordered before the date of this publication but delivered subsequent to the date of this publication; however, the requirement for these compilers to contain any of the optional modules defined herein is waived if they are not needed to meet programmatic requirements.

b. The provisions of this publication apply to orders placed after the date of this publication; however, a compiler conforming to FIPS PUB 21–1 may be acquired for interim use until the conforming compiler is available.

11.2 *Interpretation of FIPS COBOL.* NBS provides for the resolution of questions regarding FIPS COBOL specifications and requirements, and issues official intepretations as needed. All questions about the interpretation of FIPS COBOL should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: COBOL Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of COBOL Compilers.* The General Services Administration (GSA), through its Federal Software Testing Center (FSTC), provides a service for the purpose of validating the conformance to this standard of compilers offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the FSTC which is located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041–3467 (703–756–6153).

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 21–2 (FIPS PUB 21–1), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 84–30351 Filed 11–19–84; 8:45 am]
BILLING CODE 3510–13–M

[Docket No. 41027–4127]

Proposed Revision of FIPS Fortran and FIPS Minimal Basic

Under the provisions of Public Law 89–306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. Revisions of Federal Information Processing Standard FIPS Fortran (FIPS PUB 69–1) and FIPS Minimal Basic (FIPS PUB 68–1) are being proposed for Federal use.

The purpose of the proposed revision is to: (1) Make the goals of the FIPS more definitive, (2) recognize advances in programming technology, (3) provide more specific guidance concerning the applicability for each language, and (4) provide consistent policy for all the FIPS languages. The language specifications of FIPS Fortran and FIPS Minimal Basic are not changed.

Prior to the submission of these proposed revised standards to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs of, impact on, and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Comments concerning the adoption of these proposed revisions are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS Fortran and Minimal Basic Revision, National Bureau of Standards, Gaithersburg, MD 20899. To be considered, comments on this proposed action must be received on or before March 20, 1985.

Written comments received in response to this notice plus written comments obtained from Federal departments and agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

Persons desiring further information about these proposed revisions may contact, Ms. Mabel Vickers, Data Management and Programming Languages Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301/921–2431.

Dated: November 14, 1984.

Federal Information Processing Standards Publication 69–1

(date)

Announcing the Standard for Fortran

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Fortran (FIPS PUB 69).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the revision of Federal Information Processing Standard Fortran. This revision supersedes FIPS PUB 69 and reflects changes to the Objectives, Applicability, and Implementation portions of FIPS Fortran. FIPS Fortran is the adopotion of American National Standard

Programming Language Fortran, X3.9–1978. The American National Standard specifies the form and establishes the interpretation of programs expressed in the Fortran programming language. The standard consists of a full language and a subset language. The purpose of the standard is to promote portability of Fortran programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers interpreters, or other forms of high level language processors, and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard Programming Language Fortran, X3.9–1978.

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201–36.1310, Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents, Federal Information Processing Standards (FIPS) Programming Languages.

b. Federal Information Processing Standards Publication 29–1, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—to encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—to reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—to reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;

—to protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS Fortran is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS Fortran is especially suited for: (1) the generation programs to solve recurrent numerical, scientific and engineering problems, particularly those which depend upon efficient computation or access to mathematical or statistical libraries of subprograms; (2) the efficient implementation of algorithms on a wide range of computing equipment of varying power structure.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical or numerical software packages. The use of any facility should be considered in the context of system life, system cost, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a Fortran source program, then the resulting program should conform to the conditions and specifications of FIPS Fortran.

10. *Specifications.* FIPS Fortran specifications are the language specifications contained in American National Standard Programming Language Fortran, X3.9–1978. The Fortran standard describes two levels of the Fortran language. Fortran refers to the full language and Subset Fortran refers to the subset of the full language.

The X3.9–1978 document specifies the form of a program written in Fortran, formats of data for imput and output, and semantic rules for program and data interpretation.

The standard does not specify limits on the size or complexity of programs, the range or precision of numeric quantities or the method of rounding of numeric results, the results when the rules of the standard fail to establish an interpretation, minimum system requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

A facility should be available in the processor that allows a Fortran source program to be analyzed with respect to FIPS Fortran. Any statement appearing in the source program that does not conform syntactically to the specifications of FIPS Fortran should be explicitly identified.

11. *Implementation.* The implementation of FIPS Fortran involves three areas of consideration: acquisition of Fortran processors, interpretation of FIPS Fortran, and validation of Fortran processors.

11.1 *Acquisition of Fortran Processors.* This publication is effective (date of publication of final document in the **Federal Register**). Fortran processors acquired for Federal use after this date should implement FIPS Fortran. Conformance to FIPS Fortran should be

considered whether Fortran processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing management, or specified for use in contracts for programming services.

11.2 *Interpretation of FIPS Fortran.* NBS provides for the resolution of questions regarding FIPS Fortran specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS Fortran should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: Fortran Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of Fortran Processors.* The General Services Administration (GSA), through its Federal Software Testing Center (FSTC), provides a service for the purpose of validating the conformance to this standard of language processors offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the FSTC which is located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041–3467 (703–756–6153).

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 69–1 (FIPS PUB 69–1), and title. Payment may be made by check, money order, or deposit account.

Federal Information Processing Standards Publication 68–1

(date)

Announcing the Standard for Minimal Basic

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Minimal Basic (FIPS PUB 68–1).

2. *Category of Standard.* Software Standard, Programming Language.

(3) *Explanation.* This publication announces the revision of Federal Information Processing Standard (FIPS) Minimal Basic. This revision supersedes FIPS PUB 68 and reflects changes to the Objectives, Applicability, and Implementation portions of FIPS Minimal Basic. FIPS Minimal Basic is the adoption of American National Standard Programming Language Minimal Basic, X3.60–1978. The American National Standard defines the syntax of the Minimal Basic programming language and the semantics for its interpretation. The standard is used by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard language.

(4) *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard Programming Language Minimal Basic, X3.68–1978.

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201–36.1310, Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents, Federal Information Processing Standards (FIPS) Programming Languages.

b. Federal Information Processing Standards Publication 29–1, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500–*117*, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;

—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS Minimal Basic is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS Minimal Basic is especially suited for: (1) the rapid development of computer programs to solve small nonrecurrent problems, particularly on computers providing time-shared or interactive service; and (2) for use in computing environments in which ease of learning and casual use are dominant factors.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisified through the use of report application-oriented software package. The use of any facility should be considered in the context of system life, system cost, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a Basic source program, then the resulting program should conform to the conditions and specifications of FIPS Minimal Basic.

10. *Specifications.* FIPS Minimal Basic specifications are the language specifications contained in American National Standard Programming Language Minimal Basic, X3.68–1978.

The X3.68–1978 document specifies the form of a program written in Minimal Basic, formats of data for input and output, minimal precision and range of numeric representations for input and output, semantic rules for program and data interpretation, and errors and exceptional circumstances that must be detected by a standard-conforming Basic processor.

The standard does not specify limits on the size of programs, minimum system requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing. Although Minimal Basic is primarily an interactive language, the standard does not restrict implementations to the interactive mode.

11. *Implementation.* The implementation of FIPS Minimal Basic involves three areas of consideration: acquisition of Minimal Basic processor, interpretation of FIPS Minimal Basic, and validation of Minimal Basic processors.

11.1 *Acquisition of Minimal Basic Processors.* This publication is effective (date of publication of final document in the **Federal Register**). Minimal Basic processors acquired for Federal use after this date should implement FIPS Minimal Basic. Conformance to FIPS Minimal Basic should be considered whether Minimal Basic processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing managment, or specified for use in contracts for programming services.

11.2 *Interpretation of FIPS Minimal Basic.* NBS provides for the resolution of questions regarding FIPS Minimal Basic specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS Minimal Basic should be addressed to: Director, Institute for Computer Sciences and Technology, ATTN: Basic Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of Minimal Basic Processors.* The General Services Administration (GSA), through its Federal Software Testing Center (FSTC), provides a service for the purpose of validating the conformance to this standard of language processors offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the FSTC which is located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041–3467 (703–756–6153).

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 68–1 (FIPS PUB 68–1), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 84–30350 Filed 11–19–84; 8:45 am]
BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in India

November 15, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 21, 1984. For further information contact Ross Arnold, International Trade Specialist (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India includes flexibility provisions allowing, among other things, for percentage increases in certain categories during an agreement year, provided a deduction in equivalent square yards is made in another specific limit category (serving). Under the terms of the bilateral agreement and at the request of the Government of India, further swing is being applied to the import limits established for cotton textile products in Categories 335 (coats), 336 (dresses), 338/339/340 (shirts and blouses), 343 (skirts). These adjustments will result in decreases in all of the foregoing category limits except Category 338/339/340 which will be increased from 1,019,984 dozen to 1,088,238 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 15, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 13, 1984, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton, wool and man-made fiber textile products exported during the twelve-month period beginning on January 1, 1984 and extending through December 31, 1984, produced or manufactured in India, in excess of designated limits. The Chairman further advised you that the limits are subject to adjustment.[1]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of December 21, 1982, between the Governments of the United States and India which provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Effective on November 21, 1984, paragraph 1 of the directive of December 13, 1983 is hereby further amended to include the following adjusted limits:

Category	Adjusted 12-mo limits [1]
335	139,752 dozen.
336	247,548 dozen.
338/339/340	1,088,238 dozen.
342	364,353 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1983.

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-30446 Filed 11-19-84; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Gee Kay Fabrics, Inc., et al.; Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Gee Kay Fabrics, Inc., and Geroge Krasnov, individually, in which they agree to cease and desist from selling or offering sale, in commerce, or manufacturing for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material which fails to conform to the Standard for the Flammability of Childrens's Sleepwear: Sizes 0 through 6X (FF3-71) (16 CFR part 1516); the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF5-74) (16 CFR Part 1616); or the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610). If finally accepted, this consent agreement will settle allegations of the Commission staff that Gee Kay Fabrics, Inc., and corporate officer have violated the provisions of the Flammable Fabrics Act.

DATES: Written comments on the provisionally accepted consent agreement must be received by the Commission by December 5, 1984.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stephen E. Joyce, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6626.

Dated: November 15, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-30405 Filed 11-19-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Secretary of Defense Media Advisory Council

Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of Defense Media Advisory Council has been found to be in the public interest in connection with the performance of duties imposed on the Department by law.

The Council will advise the Secretary of Defense on matters concerning the interface between the Department of Defense and the national and international press corps; review the newly prepared OASD(PA) plan for interface with the news media during military operations and recommend changes or alternative approaches to the Secretary of Defense; review the findings of the CJCS/Media-Military Relations Committee Study (Sidle Panel); review the public affairs curriculum at the various Service senior colleges and service academies and recommend changes or new approaches to the Secretary; review the curriculum at the Defense Information School to ensure that future public affairs personnel receive realistic training for their future positions; participate in seminars or similar programs at the various Service senior colleges and Service academies and the Defense Information School; meet periodically with the Secretary of Defense, Chairman of the Joint Chiefs of Staff and senior Department of Defense public affairs officers to discuss the Department's public affairs policies on both specific and general issues.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 14, 1984.

[FR Doc. 84-30371 Filed 11-19-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License; P.I.D. Associates, Inc.

Notice is hereby given of an intent to grant to P.I.D. Associates, Inc. of Hendersonville, N.C., an exclusive license to practice in the United States the invention described in U.S. Patent No. 4,252,777, entitled "Recovery of Aluminum and Other Metal Values from Fly Ash." The invention 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:

(1) 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 the invention in the United States, in which applicant states that he has already brough the invention to practical application expenditiously.

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 7th day of November 1984.

Theodore J. Garrish,

General Counsel.

[FR Doc. 84-30343 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

Intent to Grant Exclusive Patent License; Geotomographics, Ltd.

Notice is hereby given of an intent to grant to Geotomographics, Ltd. Of Alamo, California, an exclusive license to practice in the United States the invention described in U.S. Patent No. 4,161,687, entitled "Method for Locating Underground Anomalies by Diffraction of Electromagnetic Waves Passing between Spaced Boreholes." The invention 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 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 7th day of November 1984.

Theodore J. Garrish,

General Counsel.

[FR Doc. 84-30344 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council Refinery, Capability Task Group; Meeting

Notice is hereby given that the Refinery Capability Task Group will meet in December 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Refinery Capability Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and finding will be based on information and data to be gathered by the various task groups.

The Refinery Capability Task Group will hold its first meeting on Tueday, December 4, 1984, starting at 9:00 a.m., in Conference Room DE 7-8 of Fluor Engineers, Inc., One Fluor Drive, Sugarland, Texas.

The tentative agenda for the Refinery Capability Task Group meeting follows:

1. Opening remarks by Chairman and Government Cochairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the U.S. Refinery Capability Task Group.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Refinery Capability Task Group 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 file a written statement with the Refinery Capability Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353/2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 13, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-30443 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board, Supply Subpanel of the Energy R&D Strategy Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Supply Subpanel of the Energy R&D Strategy Panel of the Energy Research Advisory Board (ERAB).

Date and Time: December 12, 1984—9:30 a.m.—4:00 p.m.

Place: O'Hare Marriott, 8535 Wast Higgins Road, Room 399, Chicago, IL 60631.

Contact: Charles E. Cathey, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., (202) 252-5444.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the panel: To examine the future energy needs of the Nation and develop judgments on the essential ingredients of a balanced energy R&D effort. The Panel has established Supply, Demand, Research and Infrastructure Subpanels to assist in carrying out its assignments.

Tentative Agenda

- Review of long-range energy R&D goals and the National Energy Policy Plan
- Briefing by Department of Energy staff on the Renewable Energy Program evaluation process
- Review of revised working papers on:
  - —Electricity
  - —Liquids
  - —Gas
  - —Coal
  - —Renewables
  - —Fusion
  - —Transportation, distribution, and storage
- Plan future subpanel efforts and meetings
- Public Comment (10 minute rule)

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 100 Independence Avenue, SW, Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 13, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84-30442 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of October 19 Through October 26, 1984

During the Week of October 19 through October 26, 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.

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.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 13, 1984.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Oct. 19 through Oct. 26, 1984]

Date	Name and location of applicant	Case No.	Type of Submission
Oct. 22, 1984	James T. O'Reilly, Cincinnati, OH	HFA-0258	Appeals of an Information Request Denial. If Granted: The October 10, 1984 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and James T. O'Reilly would receive assess to certain information regarding Fernald, Ohio contract facilities known as Feed Materials Production Center (FMPC).
Do	John H. Hnatio, Mt. Airy, MD	HFA-0257	Appeal of an Information Request Denial. If granted: John Hnatio would receive a determination which, according to his submission, would completely respond to the issues raised in an appeal to the Office of Hearings and Appeals on March 20, 1984.
Do	Petroleum Carrier Company, Inc., Lafayette, LA	HRD-0245 and HRH-0245	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing convened in connection with a Statement of Objections submitted by Petroleum Carrier Company, Inc. in response to the Proposed Remedial Order (Case No. HRO-0228).
Oct. 24, 1984	AWECO, Inc., Washington, DC	HRS-0046	Request for Stay. If granted: The Proposed Remedial Order proceeding (Case No. HRO-0179) involving AWECO, Inc., would be stayed pending settlement negotiations.
Do	Economic Regulatory Administration, Washington, DC	HRD-0246	Motion For Discovery. If granted: Discovery would be granted to the Economic Regulatory Administration in connection with the Statement of Objections submitted in response to a May 1, 1979 Proposed Remedial Order (Case No. HRX-0107) issued to Marathon Petroleum Company.
Oct. 25, 1984	Albuquerque Operations Office, Albuquerque, NM	HFA-0259	Appeal of an Information Request Denial. If granted: John R. Selby would receive access to limited portions of documents pertaining to a DOE contract for the "New Detonator Facility."
Oct. 26, 1984	American Federation of Government Employees, Pittsburgh, PA.	HFA-0260	Appeal of an Information Request Denial. If granted: The September 26, 1984 Freedom of Information Request Denial issued by the Coal Utilization Technology Division would be rescinded, and the American Federation of Government Employees would receive access to a complete copy of all Department of Energy records detailing the hazardous waste management practices of GE Matsco Corporation and all other contractors and subcontractors, engaged in the generation and disposal of hazardous waste at the Pittsburgh Energy Technology Center from May 7, 1980 to the present time.

REFUND APPLICATIONS RECEIVED

[Week of Oct. 19 to Oct. 26, 1984]

Date	Name of refund proceding/name of refund applicant	Case No.
Oct. 22, 1984	Amoco/Massachusetts	RQ21-124.
Do	Amoco/Assiniboine & Sioux Tribes	RQ21-125.
Do	Gulf/Buck's Service Station	RF40-152.
Do	Gulf/Gray's Gulf	RF40-153.
Do	Gulf/B.N.M., Inc	RF40-154.
Do	Gulf/Manchester's Gulf	RF40-155.
Do	Gulf/Estes Gulf Service	RF40-156.
Do	Gulf/Herman's Service Station, Inc	RF40-157.
Do	Windham/Save 4 Stores	RF43-5.
Oct. 23, 1984	Amoco/Cities Service Company	RF21-12362.
Do	Gulf/Double S. Rauch	RF40-158.
Do	Gulf/General Battery Corporation	RF40-159.
Oct. 19, 1984	Amoco/Kansas	RQ21-126.
Do	Belridge/Kansas	RQ8-127.
Do	Palo Pinto/Kansas	RQ5-128.
Oct. 24, 1984	Texas Oil & Gas Corp/Hill Petroleum, Inc	RF42-2.
Oct. 25, 1984	Gulf/Alps Tire & Service Company	RF40-160.
Do	Gulf/Alderman's Gulf Service	RF40-161.
Oct. 26, 1984	Gulf/Kennedy Gulf Service Station	RF40-162.
Do	Gulf/Jack Smith Gulf Service	RF40-163.
Do	Gulf/Howell Gulf Service Station	RF40-164.
Do	Gulf/Johnston Service, Inc	RF40-165.
Do	Amtel/M.V. Gardenhire Oil Co	RF46-10.
Do	Amtel/Daniel Korienek	RF46-11.
Do	Amtel/Motor Fuels & Supply Co	RF46-12.
Do	Amtel/William D. Dollar	RF46-13.
Do	Amtel/Chaney Oil Co. of Vicksburg	RF46-14.
Do	Amtel/Bob's Kwik Gas	RF46-15.
Do	Amtel/Berg Oil Company	RF46-16.

[FR Doc. 84-30345 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of October 26 Through November 2, 1984

During the Week of October 26 through November 2, 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 be 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.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 13, 1984.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 26 through Nov. 2, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 18, 1983	M&M Minerals Corp., Jackson, MS	HRH-0031	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by M&M Minerals Corporation in response to the Proposed Remedial Order (Case No. HRO-0018) issued to it.
Oct. 29, 1984	Dr. Milton M. Hoening, Washington, DC	HFA-0261	Appeal of an Information Request Denial. If granted: The September 27, 1984 Freedom of Information request denial issued by the Office of Nuclear Materials Production would be rescined, and Dr. Milton M. Hoening would receive access to 10 photographs of the Nuclear Materials Production facilities.
Nov. 2, 1984	CMC Oil Co., Washington, DC	HRD-0247 and HRH-0247	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in conection with the Statement of Objections submitted by CMC Oil Company in response to the Proposed Remedial Order (Case No. HRO-0135) issued to RFB Petroleum Inc.

Notice of Objection Received

[Week of Oct. 26 to Nov. 2, 1984]

Date	Name and location of applicant	Case No.
Oct. 30, 1984	Seneca Oil Co., Washington, DC	HEE-0075

Refund Applications Received

[Week of Oct. 26 to Nov. 2, 1984]

Date	Name of Refund proceeding/name of refund applicant	Case No.
Oct. 26, 1984	Willis/Huttel's Mobil Service	RF41-12
Oct. 29, 1984	Gulf/Louis J. Kennedy Trucking Company	RF40-166
Do	Gulf/Metro-Dade County	RF40-167
Do	Gulf/Greenleaf Service Station	RF40-168
Do	Gulf/Kerlin Gulf Service	RF40-169
Do	Amoco/Anoka-Hennepin Independent School District	RF21-12363
Do	Gulf/Standard Trucking Company	RF40-170
Do	Willis/Harvey Bean	RF41-13
Oct. 30, 1984	Gulf/Poole Truck Line, Inc	RF40-171
Do	Gulf/Pawlar's Gulf Service	RF40-172
Do	Gulf/John L. Baltz	RF40-173
Do	Gulf/Gary Beitzel	RF40-174
Do	Gulf/Jerry Dybul	RF40-175
Do	Gulf/Bobby G. Dyson	RF40-176
Do	Gulf/William C. Ebert	RF40-177
Do	Gulf/Mancy B. Finch	RF40-178
Do	Gulf/Patrick Gedig	RF40-179
Do	Gulf/Michael Green	RF40-180
Do	Gulf/David R. Hassa	RF40-181
Do	Gulf/Darwin Huett!	RF40-182
Do	Gulf/Richard A. Klemm, Sr	RF40-183
Do	Gulf/David D. Lawrey	RF40-184
Do	Gulf/Franklin J. Lyss	RF40-185
Do	Gulf/Patrick Malek	RF40-186
Do	Gulf/Partick Malek	RF40-187
Do	Gulf/Byron McCrary	RF40-188
Do	Gulf/James Sabel	RF40-189
Do	Gulf/Jerome A. Schmechel	RF40-190
Do	Gulf/Dwight W. Shafer	RF40-191
Do	Gulf/John R. Sternemann	RF40-192
Do	Gulf/Ralph C. Uzzle	RF40-193
Do	Gulf/Richard P. Wara	RF40-194
Do	Gulf/Richard F. Wilcoxon	RF40-195
Do	Gulf/David A. Williams	RF40-196
Do	Gulf/Robert Witthuhn	RF40-197
Do	Gulf/James Zorn	RF40-198
Do	Gulf/Dees Automotive Service	RF40-199
Do	Gary Energy Corp/Butane Power & Equipment Co	RF47-1
Oct. 31, 1984	Gulf/Pat's Gulf Service Station	RF40-200
Do	Gulf/Coy W. Nutt's Southside Gulf	RF40-201
Do	Gulf/Younce Gulf Service, Inc	RF40-202
Do	Gulf/Keith's Gulf Service	RF40-203

REFUND APPLICATIONS RECEIVED—Continued

[Week of Oct. 26 to Nov. 2, 1984]

Date	Name of Refund proceeding/name of refund applicant	Case No.
Do	Gulf/Huffhines' Gulf Service	RF40-204
Do	Gulf/Les Aderholt's Gulf	RF40-205
Oct. 29, 1984	Webster Oil Co/Wade's 66 Service	RF48-1
Nov. 1, 1984	Gulf/Associated Auto & Truck Rentls, Inc	RF40-206
Do	Amtel/John T. Harpster	RF46-17
Do	Amtel/Mobley Oil Company	RF47-18
Nov. 2, 1984	Gulf/Jim Edwards Gulf	RF40-207
Do	Gulf/Theatres Service Company	RF40-208
Do	Gulf/Clinton Gulf Service	RF40-209
Do	Amoco/Spillane's Servicecenters	RF21-12365
Do	Gulf/Martin's Gulf Service	RF40-210
Do	Amoco/Idaho	RQ21-129

[FR Doc. 84-30346 Filed 11-19-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures; Warren Oil Co.

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from Warren Oil Company in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be postmarked by February 19, 1985, should conspicuously display a reference to case number HEF-0193, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of consent order between Warren Oil Company and DOE. The consent order settled all disputes between DOE and Warren concerning possible violations of DOE price regulations with respect to the firm's sales of No. 2 heating oil, kerosene, No. 4 fuel oil, and No. 6 fuel oil during the period November 1, 1973 through April 30, 1974.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by February 19, 1985, and should be sent to the address set forth at the beginning of this notice.

Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: November 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 13, 1984.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Warren Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0193.

This decision involves a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations of the Department of Energy (DOE), ERA may request that the OHA formulate and implement special procedures to make refunds in order to remedy the effects of violations of DOE regulations. As we have stated in previous decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,597 (1981). The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. In this case ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order that it entered into with Warren Oil Company (Warren), a firm located in Providence, Rhode Island.

Warren, a reseller of No. 2 heating oil, kerosene, No. 4 fuel oil, and No. 6 fuel oil, sold petroleum products to resellers and end-users during the period of federal price controls, and was therefore subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F. A DOE audit of Warren's records revealed possible regulatory violations with respect to the firm's pricing of refined petroleum products during the period November 1, 1973 through April 30, 1974 (hereinafter referred to as the audit period). In order to settle all claims and disputes between Warren and DOE regarding the firm's sales of kersoene, heating oil and fuel oils during the audit period, Warren and DOE entered into a consent order on August 31, 1979. Under the terms of the consent order Warren agreed to remit $68,681.82 to the DOE. The funds were deposited into an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of October 31, 1984, the Warren escrow account had earned $24,385.47 in interest. This Decision concerns the distribution of the $68,681.82 that was deposited into the escrow account, plus the accrued interest.

On July 31, 1984, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Warren's alleged violations. 49 FR 31487 (August 7, 1984). In the proposed decision we described a two-stage process for the distribution of the funds made available by the Warren consent order. In the first stage, we will refund money to identifiable purchasers of No. 2 heating

oil, kerosene, No. 4 fuel oil, and No. 6 fuel oil who may have been injured by Warren's pricing practices during the period November 1, 1973 through April 30, 1974. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

This decision establishes procedures for filing claims in the first stage of the Warren refund proceeding. We will describe the information that a purchaser of Warren petroleum products should submit in order to demonstrate eligibility to receive a portion of the consent order funds. We will not, however, determine procedures for a second stage of the refund process in this decision. Our determination concerning the disposition of any remaining funds will necessarily depend on the size of the fund. It is therefore premature for us to address issues regarding the disposition of any remaining funds after all the first stage claims have been paid. In response to our July 31, 1984 proposed decision, several States filed comments involving the disposition of possible funds remaining at the conclusion of the first stage proceedings. Therefore, those comments will not be discussed here.

I. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Warren consent order fund. In our proposed decision and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement, Economic Regulatory Administration: In re Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,284 (1982). We have received no comments challenging our authority to fashion special refund procedures in this case. We will therefore grant ERA's petition and assume jurisdiction over the distribution of the Warren consent order funds.

II. Refunds to Identifiable Purchasers

The Warren consent order funds will be distributed to claimants who satisfactorily demonstrate that they have been injured by Warren's alleged pricing violations. The information available to us at this time regarding Warren's operations during the consent order period provides the names and addresses of a few of the firm's customers. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Warren No. 2 heating oil, kerosene, No. 4 fuel oil, and No. 6 fuel oil for the period November 1, 1973 through April 30, 1974. If the products were not purchased directly from Warren the claimant must include a statement setting forth its reasons for maintaining the product originated with Warren. In addition, a reseller or retailer of Warren petroleum products that files a claim generally will be required to establish that it was unable to pass the alleged overcharges on to its customers. To make this showing, a reseller or retailer claimant will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it will have to demonstrate that, at the time it purchased the product from Warren, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges.

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Warren during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

The presumption that claiments seeking smaller-refunds were injured by the pricing practices settled in the Warren consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to the OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Warren and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claiment will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold

level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are expecially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is faily low, and the time period of the consent order was quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,609 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of Warren petroleum products need only document their purchase volumes from Warren to make a sufficient showing that they were injured by the alleged overcharges. If a reseller or retailer made only spot purchases from Warren, however, it should not receive a refund because it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased market prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers at 85,396–97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit sufficient evidence to establish that it was unable to recover the increased prices it paid for Warren petroleum products. *See Amoco* at 88,200.

As discussed above, we have made a finding that end-users (i.e. consumers) of Warren petroleum products were injured by the firm's pricing practices, and they will not be required to submit any other evidence of injury in order to qualify for a refund. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶85,007 (1983); *Standard Oil Co. (Indiana)/Elgin, Joliet, and Eastern Railway*, 11 DOE ¶85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding a consumer need only document the specific quantities of Warren petroleum products it purchased during the audit period.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a per-gallon refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. In the present case, based on information available at this time, the volumetric refund amount is $.0082563 per gallon.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

III. Application for Refund

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our July 31, 1984 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased Warren petroleum products. An application must be in writing, signed by the applicant, and specify that it pertains to the Warren Oil Company Consent Order Fund, Case Number HEF–0193.

An applicant should indicate from whom the No. 2 heating oil, kerosene, No. 4 fuel oil or No. 6 fuel oil was purchased and, if the applicant is not a direct purchaser from Warren, it should also indicate the basis for its belief that the petroleum product purchased originated from Warren. Each applicant should report its volume of purchases by month for the period of time for which it is claiming it was injured by the alleged overcharges. Each applicant should specify how it used the Warren petroleum product, such as whether it was a reseller or ultimate consumer. If the applicant is a reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981. An applicant who did maintain banks should furnish the OHA with a schedule of its cumulative banks calculated on a quarterly basis from November 1973 through January 27, 1981. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers, if the applicant is a reseller. For example, a firm may submit market surveys or information about changes in its profit margins or sales volume to show that price increases to recover alleged overcharges were infeasible. The applicant should report any past or present involvement as a party in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its application for refund is being considered. *See* 10 CFR 205.9(d).

Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two

additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: Warren Oil Company Consent Order Refund Proceedings, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Applications for refund of a portion of the Warren consent order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

IV. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all first stage claims have been disposed of, undistributed funds could be distributed in a number of different ways. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is therefore ordered that:

(1) The Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case No. HEF–0193 is hereby granted.

(2) Applications for Refunds from the funds remitted to the Department of Energy by Warren Oil Company, pursuant to the consent order executed on August 31, 1979, may now be filed.

(3) All applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: November 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Notes

Resellers whose monthly purchases during the period for which a refund is claimed exceed $5,000 but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the $5,000 threshold amount without being required to submit evidence of injury. *See Vickers* at 85,396; *see also Ada* at 88,122.

[FR Doc. 84–30347 Filed 11–19–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP84–748–000]

ANR Pipeline Co.; Application

November 9, 1984.

Take notice that on September 27, 1984, as supplemented October 4, and October 27, 1984, ANR Pipeline Company (ANR), 500 Rennaissance Center, Detroit, Michigan 48423, filed in Docket No. CP84–748–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited term, best-efforts transportation service on behalf of Shepherd Oil, Inc. (Shepherd), and the operation of facilities necessary to effectuate delivery of the gas to Shepherd, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

ANR explains that within a few weeks after implementation of the end-user transportation blanket activities as provided by Commission Order No. 319, issued August 5, 1983, Shepherd commenced negotiations with ANR, requesting ANR to transport volumes of gas Shepherd was negotiating to acquire. ANR further explains that based on its interpretation of the scope of its authority to construct delivery facilities to accomplish the proposed transportation service for Shepherd, ANR built a tap on its 26-inch mainline for delivery to the Shepherd facilities in Jefferson Davis Parish, Louisiana. Coincidentally with the completion of the facilities, the Commission issued Order No. 319A effective November 3, 1983, which prohibited the type of construction undertaken by ANR, it is stated. However, the Commission did provide in the order that ". . . any certificate holder that has constructed a tap to deliver transportation gas pursuant to § 157.209 should seek prospective case-by-case certificate authority for operation of the tap . . ." it is further stated. ANR herein requests specific authorization to utilize the facilities to accomplish the direct delivery of gas to Shepherd. ANR avers that upon installation of the facilities the same remained unused pending a determination of the most appropriate format for authorization to operate. Further, it is averred that on February 9, 1984, the determination was made to utilize the facilities consisting of one 4-inch connection on ANR's 26-inch mainline plus associated high pressure piping, valves, fittings, and appurtenances, which collectively had a construction cost of $34,000, solely as "Section 311" facilities and transportation commenced for Shepherd as part of an integrated transportation service utilizing Louisiana Instrastate Gas Company (LIG) as the instrastate pipeline accomplishing delivery to Shepherd. ANR's transportation on behalf of LIG has been provided pursuant to Part 284 of the Commission's Regulations, it is asserted.

ANR states that it has been advised that Shepherd requires economical source of supply and the most cost-efficient transportation service to serve Shepherd's chemical production plant in Jennings, Louisiana; accordingly, Shepherd has requested that ANR obtain authorization to operate the delivery facilities and that the direct transportation of end-user gas be undertaken without reliance on the intermediate service of the intrastate pipeline. ANR indicates that it has been advised that LIG concurs with the changes in service proposed herein. ANR further indicates that in the event the facilities are utilized for the end-user service proposed herein, Shepherd would reimburse ANR for the construction costs.

ANR indicates that it has entered into a transportation agreement dated March 23, 1984, which provides that ANR would transport on a best-efforts basis up to 5,040 dt equivalent of gas per day through June 30, 1985, which gas Shepherd would cause its seller, ANR Production Company (ProdCo), to tender to ANR at various points of interconnection between the pipeline facilities of ANR and ProdCo. ANR states that it would tranpsort such volumes to Shepherd at a point of interconnection of the facilities of ANR and Shepherd in Jefferson Davis Parish. ANR would receive 45.1 cents per dt equivalent for each dt of gas transported to Shepherd, it is stated. In addition to the tap facilities constructed by ANR, 4,000 feet of pipeline connecting Shepherd's facilities to ANR's tap and meter station would be required to effectuate the end-user transportation service and would be built by Shepherd, it is further stated.

Finally, ANR indicates in its October 27, 1984, supplement that with respect to ANR's request for flexible authority to provide additional transportation service on behalf of Shepherd, at Shepherd's request, where such service is within the authorized transportation volumes, where the gas would be tendered at the proposed delivery point and the gas would be consumed at

Shepherd's Jennings, Louisiana, facility, ANR modifies its request to conform to the requirements of a 7(c) application. ANR requests such authority as would permit it to undertake additional transportation service for Shepherd, as Shepherd would require. It is stated that additional service would be limited to the addition or deletion of points of receipt only as required to provide the transportation proposed herein and as consistent with changes which Shepherd and its sellers determine are necessary to satisfy the delivery and take requirements of a sales agreement(s). ANR proposes to file, by February 1, annual tariff revisions setting forth addition and deletions of any source of supply and/or receipt points made during the previous calendar year.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1984, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30392 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-10-000]

Idaho Power Co.; Application

November 9, 1984.

Take notice that on November 1, 1984, Idaho Power Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to seaction 204 of the Federal Power Act seeking an Order authorizing the Applicant to (a) finance a portion of the cost of the retrofit of the Applicant's 33⅓% undivided interest in certain air and water pollution control facilities in Units 1, 2 and 3 of the Jim Bridger steam generating Plant through loan agreements with Sweetwater County, Wyoming (County), which will provide for the issuance by the County of not to exceed $18,000,000 aggregate principal amount of pollution control revenue bonds and the loan of the proceeds of the Applicant and (b) the assumption of liability as guarantor of the principal of, interest on the premium if any on the Bonds of the County. The proposed issuance date for the initial series of the Bonds is on or after December 12, 1984.

Any person desiring to be heard or to protest with reference to said application should on or before December 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30394 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-60-000]

K N Energy, Inc.; Application

November 9, 1984.

Take notice that on October 25, 1984, K N Energy, Inc. (K N) (K N) P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-60-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing revisions in its jurisdictional customers' contract demands and winter period service demands and for a one-time waiver of the requirements of its FERC Gas Tariff to permit such revisions, all as more fully described in its application which is on file with the Commission and open to public inspection.

K N proposes to increase the contract demand service of Greeley Gas Company (Greeley) and Midwest Energy, Inc. (Midwest), by 50 Mcf of gas per day and 500 Mcf of gas per day, respectively. K N states that these contract demand increases are necessary to accommodate growth in the market areas of Greeley and Midwest.

K N also proposes to decrease its contract demand service to the City of Central City and Producers Gas Equities (Producers) by a net total of 221 Mcf of gas per day and to decrease its winter period service by a net total of 329 Mcf of gas per day to Northwestern Public Service Co. and Producers. K N states that these proposed service decreases are attributable to the three customer's projected lower requirements and decreasing sales due to conservation and other economic factors.

In addition, K N requests a waiver of the requirements of its FERC Gas Tariff to permit, on a one-time basis, a net decrease in winter period service demand without a corresponding increases of such demand.

K N also filed revised Exhibits A to its service agreements with the five jurisdictional wholesale customers who have requested the above revisions in the demand volumes under Rate Schedules CD and WPS. K N requests that the proposed Exhibits A be made effective on November 1, 1984, or upon the issuance of an order granting authorization for the revised demand volumes as described above.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participates as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rule.

Take further notice that, pursuant to the authority contained in and subject to jurisdication conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procdure herein provided for, unless otherwise advised, it will be unnecessary for K N to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30395 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-7-000]

Louisville Gas and Electric Co.; Application

November 9, 1984.

Take notice that on October 21, 1984, Louisville Gas and Electric Company filed an application pursuant to Section 204 of the Federal Power Act seeking an order authorizing the issuance of short-term debt securities of not more than $130,000,000.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 1, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30396 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-75-000]

New England Power Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 31, 1984, New England Power Company (NEP) tendered for filing as an initial rate schedule a Power Contract between NEP and Bangor Hydro-Electric Company (Bangor) that provides for the sale of capacity and related energy from NEP's Brayton Point Unit No. 4 for the period November 1, 1984 to October 31, 1986. Also filed was a Service Agreement between the parties to provide transmission service of Bangor's entitlement under NEP's FERC Electric Tariff, Original Volume Number 3, as on file with this Commission.

NEP states that the sale will be at the full cost of service rate related to Brayton Point Unit No. 4, as determined under the Power Contract.

NEP requests an effective date of November 1, 1984, pursuant to the parties' agreements, and in connection therewith requests waiver of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North 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 November 27, 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. 84-30352 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-99-000]

Niagara Mohawk Power Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 5, 1984, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (RG&E) dated October 1, 1984.

Niagara presently has on file an agreement with RG&E dated April 1, 1979. The Original Agreement is to provide transmission service for the delivery of diversity power and energy from the Power Authority of the State of New York (PASNY) and RG&E. The diversity power and energy is in turn exchanged by PASNY with Hydro Quebec. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. 114. This agreement is being transmitted as a supplement to the existing agreement and supersedes Supplement No. 4.

The October 1, 1984 agreement, which is a supplement to the original agreement, revises the transmission rates. Niagara requests a waiver of the Commission's prior notice requirements in order to allow said agreement to become effective April 1, 1984.

Copies of the filing were served upon the following:

Rochester Gas & Electric Corporation, 89 East Avenue, Rochester, NY 14649

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 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. 84-30353 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-100-000]

Niagara Mohawk Power Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 5, 1984, tendered for filing as a rate schedule, an agreement between Niagara and the Rochester Gas and Electric Corporation (Rochester) dated October 1, 1984.

Niagara presently has on file an agreement with Rochester dated July 3, 1980 and last amended May 12, 1983. This agreement is for the transmission of Rochester's share of the Oswego #6 generation unit over Niagara's transmission system to Rochester.

The October 1, 1984 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and energy from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of July 1, 1984.

Copies of the filing were served upon the Rochester Gas and Electric Corporation and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 84-30354 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E85-102-000]

Niagara Mohawk Power Corp., Filing

November 14, 1984

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 5, 1984, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated October 1, 1984.

Niagara presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New york to Rochester as provided for in terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1984.

Copies of the filing were served upon the following:

Rochester Gas and Electric Corporation, 89 East Avenue, Rochester, NY 14649

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223

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 petitions or protests should be filed on or before November 27, 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. 84-30355 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-72-000]

Northern Indiana Public Service Co.; Filing

November 14, 1984

The filing Company submits the following:

Take notice that on October 29, 1984, Northern Indiana Public Service Company (NIPSCO) tendered for filing as initial rate schedules, service schedules to an interconnection agreement with the Wabash Valley Power Association, Inc. (Wabash Valley) providing for:

Service Schedule D-1—Firm Wheeling Service NIPSCO to Wabash Valley
Service Schedule E-1—Short Term Capacity NIPSCO to Wabash Valley
Service Schedule F-1—Emergency Energy NIPSCO to Wabash Valley
Service Schedule G-1—Interchange Energy NIPSCO to Wabash Valley
Service Schedule H-1—Seasonal Capacity NIPSCO to Wabash Valley
Service Schedule I—Operating Reserves
Service Schedule J-1—Non-Firm Wheeling Service NIPSCO to Wabash Valley

The effective date of service schedules shall be the date when the interconnection agreement has been approved by all applicable regulatory authorities, including the Rural Electrification Administration.

NIPSCO respectfully requests waiver of any Commission requirements not addressed by the filing as it is being made pursuant to a Settlement Agreement and the Commission's July 3, 1984 Order in Docket EL83-4-000.

Copies of this filing have been served upon Wabash Valley and the Public Service Commission of Indiana.

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 November 26, 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. 84-30356 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-40-000]

Northern Natural Gas Co.; Application

November 9, 1984

Take notice that on October 19, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-40-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities in the Matagorda Island area (MAT), offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to construct and operate 8.0 miles of 12-inch pipeline with associated metering and appurtenant facilities extending from the production platform located in MAT block 555-L to a subsea interconnection with the existing 12-inch pipeline facilities owned by Valero Transmission Company in MAT block 485, all in offshore Texas. It is explained that the proposed facilities would be utilized to transport Exploration and Production, Division of InterNorth, Inc.'s 20.71 percent ownership interest in reserves underlying MAT block 555-L back to Northern's system. It is explained that the facilities would have a daily design capacity of 18,600 Mcf. The estimated cost of facilities is $4,300,000, which would be financed out of cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30397 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST84-1221, et al.]

Northwest Pipeline Corp., et al.; Self-Implementing

November 9, 1984.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 or Part 157 of the Commission's Regulations and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commsission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "C/F(157)" indicates intrastate pipeline transportation which is incidental to a transportation by an interstate pipeline to an end-user pursuant to a blanket certificate under 18 CFR 157.209. Similarly, a "G/F(157)" indicates such transportation performed by a Hinshaw Pipeline or distributor.

Any person desiring to be heard or to make any protests with reference to a transaction reflected in this notice should on or before December 21, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter/seller [1]	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST84-1221 Northwest Pipeline Corp	NGL Production Co	9/04/84	F(157)		
ST84-1222 Northwest Pipeline Corp	Colorado Interstate Gas Co	9/04/84	G		
ST84-1223 Tennessee Gas Pipeline Co	Cincinnati Gas and Electric Co	9/05/84	B		
ST84-1224 Tennessee Gas Pipeline Co	Baltimore Gas and Electric Co	9/05/84	B		
ST84-1225 Tennessee Gas Pipeline Co	Esperanza Gas Co	9/05/84	B		
ST84-1226 Tennessee Gas Pipeline Co	Channel Industries Gas Co	9/05/84	B		
ST84-1227 Tennessee Gas Pipeline Co	Baltimore Gas and Electric Co	9/05/84	B		
ST84-1228 Colorado Interstate Gas Co	Colorado State University	9/04/84	F(157)		
ST84-1229 Colorado Interstate Gas Co	Northwest Pipeline Corp	9/04/84	G		
ST84-1230 Consolidated Gas Transmission Corp	Dayton Power and Light Co	9/04/84	B		
ST84-1231 Consumers Power Co	Michigan Gas Storage Co	9/04/84	G(HT)		
ST84-1232 Michigan Gas Storage Co	Battle Creek Gas Co	9/04/84	B		
ST84-1233 ANR Pipeline Co	Phillips Petroleum Co	9/06/84	F(157)		
ST84-1234 Louisiana Intrastate Gas Corp	Gulf South Pipeline Co	9/06/84	C	02-03-85	20.00
ST84-1235 Natural Gas Pipeline Co. of America	Mississippi River Transmission Corp	9/06/84	G		
ST84-1236 Oklahoma Natural Gas Co	Bridgeline Gas Distribution Co	9/07/84	C	02-04-85	03.00
ST84-1237 Transcontinental Gas Pipe Line Corp	Panhandle Eastern Pipe Line Co	9/07/84	G		
ST84-1238 Valero Transmission Co	Transcontinental Gas Pipe Line Corp	9/07/84	C		
ST84-1239 Natural Gas Pipeline Co. of America	Texas Eastern Transmission Corp	9/10/84	G		
ST84-1240 Natural Gas Pipeline Co. of America	Texas Eastern Transmission Corp	9/10/84	G		
ST84-1241 Columbia Gulf Transmission Co	Natural Gas Pipeline Co. of America	9/10/84	G		
ST84-1242 Equitable Gas Co	Columbia Gas Transmission Corp	9/10/84	G		
ST84-1243 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	9/14/84	B		
ST84-1244 ANR Pipeline Co	Northern Illinois Gas Co	9/10/84	B		
ST84-1245 Northern Natural Gas Co	Transcontinental Gas Pipe Line Corp	9/10/84	G		
ST84-1246 Northern Natural Gas Co	ANR Pipeline Co	9/10/84	G		
ST84-1247 Northern Natural Gas Co	Natural Gas Pipeline Co. of America	9/10/84	G		
ST84-1248 Tennessee Gas Pipeline Co	Consolidated Edison of New York	9/11/84	B		
ST84-1249 Natural Gas Pipeline Co. of America	Columbia Gas Transmission Corp	9/11/84	G		
ST84-1250 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	9/14/84	B		
ST84-1251 The River Gas Co	Gas Transport, Inc	9/12/84	G(HT)		
ST84-1252 Gasdel Pipeline System Inc	Public Service Electric and Gas Co	9/12/84	B		
ST84-1253 Northwest Pipeline Corp	Tennessee Gas Pipeline Co	9/12/84	G		
ST84-1254 Transcontinental Gas Pipe Line Corp	Federal Paper Board Co., Inc	9/14/84	F(157)		
ST84-1255 ANR Pipeline Co	Delhi Gas Pipeline Corp	9/12/84	B		
ST84-1256 ANR Pipeline Co	North Central Public Service Co	9/12/84	B		
ST84-1257 ANR Pipeline Co	Sohio Oil Co	9/12/84	F(157)		
ST84-1258 Tennessee Gas Pipeline Co	USS Chemicals (U.S. Steel Corp.)	9/17/84	F(157)		
ST84-1259 Tennessee Gas Pipeline Co	The Celotex Corp. (Jim Walker Corp.)	9/17/84	F(157)		
ST84-1260 Texas Eastern Transmission Corp	Delhi Gas Pipeline Corp	9/17/84	B		
ST84-1261 Florida Gas Transmission Co	Public Service Electric and Gas Co	9/13/84	B		
ST84-1262 Panhandle Eastern Pipe Line Co	Archer-Daniels-Midland Co	9/17/84	F(157)		
ST84-1263 Colorado Interstate Gas Co	Cosden Oil and Chemical Co	9/17/84	F(157)		
ST84-1264 Northern Natural Gas Co	Cosden Oil and Chemical Co	9/17/84	F(157)		
ST84-1265 Northern Natural Gas Co	Celanese Fibers Operations, *et al*	9/17/84	F(157)		
ST84-1266 Transcontinental Gas Pipe Line Corp	Corpus Christi Gas Gathering, Inc	9/17/84	B		
ST84-1267 Columbia Gas Transmission Corp	The Celotex Corp	9/18/84	F(157)		
ST84-1268 Columbia Gas Transmission Corp	W. R. Grace and Co	9/18/84	F(157)		
ST84-1269 Columbia Gas Transmission Corp	W. R. Grace and Co	9/18/84	F(157)		
ST84-1270 Columbia Gas Transmission Corp	Richards and Sons, Inc	9/18/84	F(157)		
ST84-1271 Columbia Gas Transmission Corp	Tru-Fit Products Corp	9/18/84	F(157)		
ST84-1272 Columbia Gas Transmission Corp	Tru-Fit Products Corp	9/18/84	F(157)		
ST84-1273 Columbia Gas Transmission Corp	USS Chemicals, Acrylic Sheet Unit	9/18/84	F(157)		
ST84-1274 Columbia Gas Transmission Corp	SOHIO Oil Co	9/18/84	F(157)		
ST84-1275 Northern Natural Gas Co	Peoples Natural Gas Co	9/20/84	B		
ST84-1276 Northern Natural Gas Co	Northern Illinois Gas Co	9/20/84	B		
ST84-1277 Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	9/20/84	B		
ST84-1278 Trunkline Gas Co	Louisiana Intrastate Gas Corp	9/21/84	B		
ST84-1279 Panhandle Eastern Pipe Line Co	Manville Building Materials Corp	9/21/84	F(157)		
ST84-1280 Valley Gas Transmission, Inc	Esperanza Transmission Co	9/21/84	B		
ST84-1281 ANR Pipeline Co	Producer's Gas Co	9/20/84	B		
ST84-1282 Natural Gas Pipeline Co. of America	Gulf South Pipeline Co	9/24/84	B		
ST84-1283 Lone Star Gas Co	Campeon Pipeline Corp	9/24/84	B		
ST84-1284 Intrastate Gathering Corp	Tennessee Gas Pipeline Co	9/25/84	C		
ST84-1285 Columbia Gulf Transmission Co	Transcontinental Gas Pipe Line Corp	9/24/84	G		
ST84-1286 Columbia Gulf Transmission Co	Ponchartrain Natural Gas System	9/24/84	B		
ST84-1288 Panhandle Eastern Pipe Line Co	Kaiser Aluminum and Chemical Corp	9/25/84	F(157)		
ST84-1289 Panhandle Eastern Pipe Line Co	Archer-Daniels-Midland Co	9/25/84	F(157)		
ST84-1290 Tennessee Gas Pipeline Co	Louisiana Indust. Gas Supply System	9/26/84	B		
ST84-1291 Columbia Gas Transmission Corp	Columbia Gas of Ohio, Inc	9/25/84	B		
ST84-1292 Columbia Gas Transmission Corp	Columbia Gas of Ohio, Inc	9/25/84	B		
ST84-1293 Tennessee Gas Pipeline Co	Quivira Gas Co	9/28/84	B		
ST84-1294 Arkansas-Louisiana Gas Co	International Paper Co	9/27/84	F(157)		
ST84-1295 Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	9/20/84	B		
ST84-1296 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	9/27/84	B		
ST84-1297 Transcontinental Gas Pipe Line Corp	Esperanza Transmission Co	9/27/84	B		
ST84-1298 Ozark Gas Transmission System	Delhi Gas Pipeline Corp	9/28/84	B		
ST84-1299 National Fuel Gas Supply Corp	Tennessee Gas Pipeline Co	9/28/84	G		
ST84-1300 Northern Natural Gas Co	Tennessee Gas Pipeline Co	9/28/84	G		
ST84-1301 Northern Natural Gas Co	THC Pipeline Co	9/28/84	B		
ST84-1302 Northern Natural Gas Co	Farmland Industries, Inc	9/28/84	F(157)		
ST84-1303 United Gas Pipe Line Co	Texas Industrial Energy	9/27/84	B		
ST84-1304 Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	9/28/84	C		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to § 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 84-30398 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01

[Docket No. ES85-9-000]

Oklahoma Gas and Electric Co.; Application

November 9, 1984

Take notice that on October 3, 1984, Oklahoma Gas and Electric Company filed an application pursuant to Section 204 of the Federal Power Act seeking an order to issue not more than $200,000,000 of short term debt securities from time to time during the period ending December 31, 1987.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file motions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30399 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-613-000]

Pacific Power & Light Co.; Order Accepting Rates for Filing, Granting Intervention, Denying Request for Contract Interpretation, and Terminating Docket

Issued November 14, 1984.

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

On August 23, 1984, PacificCorp, doing business as Pacific Power & Light Company (PP&L), tendered for filing an interconnection and sales agreement, dated July 31, 1984, between PP&L and Pacific Gas and Electric Company (PG&E).[1] The agreement provides for the joint ownership of 115 kV interconnection facilities located in Shasta County, California, and for the sale by PP&L to PG&E of: (1) A minimum of 250,000 MWh of firm energy per year; and (2) at PG&E's option, up to 50,000 MWh of optional energy per year. The maximum delivery of both firm and optional energy may not exceed 11,000 MWh per week. Rates for both firm and optional energy are to be 21 mills/kWh off peak and 28.5 mills/kWh on peak through December 31, 1987. Rates are to be adjusted annually thereafter pursuant to a formulary rate. The agreement has a term through December 31, 1992, with option for renewal. In addition to the scheduled energy, the agreement provides for the exchange of spot purchases of energy or energy and capacity at prices, times, and rates of delivery to be agreed upon by the parties. On September 12, 1984, PG&E filed a certificate of concurrence.

Notice of the filing was published in the **Federal Register**,[2] with comments due on or before September 21, 1984. Northern California Power Agency (NCPA), on behalf of itself and its members,[3] filed a timely motion to intervene, claiming that its interests as a customer and competitor of PG&E may be directly affected by the outcome of this proceeding. Specifically, NCPA expresses concern that transactions under the filed agreement may limit the availability of transmission by PG&E to NCPA under existing interconnection agreements to prevent PG&E from fulfilling its transmission and support services obligations under its Diablo Canyon nuclear project license conditions. NCPA does not oppose the filing, but requests that PG&E be required to concur in NCPA's interpretation of the filed agreement in a manner consistent with PG&E's existing obligations to NCPA.[4] Alternatively, NCPA requests that the Commission endorse such interpretation in its order accepting the agreement for filing.

On October 4, 1984, PP&L filed an answer to NCPA's motion, requesting that intervention be denied, because NCPA has no direct interest in the agreement and its alleged concerns are premature and speculative. Alternatively, PP&L requests that NCPA's request regarding interpretation of the agreement be denied. On October 9, 1984, PG&E filed an answer to NCPA's motion to intervene, opposing intervention on grounds that NCPA's claimed interest is speculative, irrelevant, and not directly affected by the outcome of this proceeding.

Discussion

Notwithstanding the opposition of PP&L and PG&E to NCPA's intervention, we find that good cause exists to grant NCPA's motion. We are satisfied that NCPA has expressed an interest in the outcome of this proceeding, as a customer and competitor of PG&E, and that its participation may be in the public interest. Accordingly, we shall grant the motion to intervene.

NCPA's request that PG&E be required to adopt its interpretation of the proposed agreement will be denied. We note that NCPA does not allege, nor has our review indicated, that any terms or conditions in the filed agreement directly contravene PG&E's interconnection agreements with NCPA or the Diablo Canyon license conditions. Thus, while implementation of the interconnection and sales agreement with PP&L may impinge upon PG&E's existing transmission commitments to NCPA under some future hypothetical circumstances, we cannot now conclude that any provisions of the proposed agreement dictate such a result. Therefore, we need not interpret the proposed agreement so as to percluse conflicts with PG&E's existing transmission obligations. In this regard, we will assume that PG&E will conform to the requirements of the Federal Power Act and the Commission's regulations, will honor the terms of its Nuclear Regulatory Commission license, and will implement its filed rate schedules consistently with its existing contractual obligations. To the extent that NCPA believes, at some future time, that PG&E has violated its existing obligations in actual practice, NCPA would be free to file a complaint with this Commission or seek any other relief deemed appropriate.

Upon review of the filing, we find that the proposed rates will not produce excessive revenues. Futhermore, NCPA

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[1] *See* Attachment for rate schedule designations.

[2] 49 FR 35981 (Sept. 13, 1984).

[3] NCPA's members are the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, California, and the Plumas-Sierra Rural Electric Cooperative.

[4] NCPA requests that PG&E agree to NCPA's interpretation of the proposed agreement in four respects: (1) That the 115 kV facilities not be considered as part of PG&E's Intertie facilities in applying paragraph F.7(a) of its Diablo Canyon Nuclear Regulatory Commission license; (2) that advance notice required by paragraph 5.1.4. for use of the 115 kV facilities, for transactions other than those under the proposed agreement, not be withheld to preclude transmission for NCPA; (3) that the preclusion in paragraph 6.1.3 of the use of the 115 kV facilities if such use would impair the other party's full use and enjoyment not apply to NCPA loads if such loads could have been transmitted to NCPA prior to the newly-constructed 115 kV facilities; and (4) that ordered use of the 115 kV facilities to fulfill transmission obligations to NCPA under the license or its agreements with PG&E not be considered grounds for termination pursuant to paragraph 8.3.2.

has identified no substantive concerns which might lead us to conclude otherwise. Accordingly, we shall accept PP&L's submittal for filing, without suspension or a hearing, to become effective upon commencement of service.[5]

The Commission orders

(A) NCPA's motion to intervene is hereby granted.

(B) NCPA's request that PG&E be required to adopt its interpretation of the agreement is hereby denied.

(C) PP&L's interconnection and sales agreement with PG&E is hereby accepted for filing to become effective upon commencement of service, without suspension or a hearing. PP&L and PG&E are directed to notify the Commission of the date of commencement of service under the agreement.

(D) Docket No. ER84–613–000 is hereby terminated.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Rate Schedule Designations

Docket No. ER84–613–000

Pacific Power & Light Company

(1) Supplement No. 1 to Rate Schedule FPC No. 83

Pacific Gas and Electric Company

(2) Supplement No. 1 to Rate Schedule FPC No. 29 (Concurs in (1) above)

[FR Doc. 84–30357 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–21–000]

Panhandle Eastern Pipe Line Co.; Change in FERC Gas Tariff

November 14, 1984.

Take notice that on November 7, 1984 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1:

Eleventh Revised Sheet No. 1
Original Sheet Nos. 3–F, 32–Y and 32–Z

Panhandle states that these sheets are submitted to provide Rate Schedule RG which provides for the gathering of natural gas released by Panhandle for sale to others. For gathering services pursuant to Rate Schedule RG Panhandle proposes to utilize rates which were deemed appropriate for gathering by producers on behalf of pipelines in Docket No. RM80–47–002.

Panhandle requests an effective date of November 1, 1984.

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 November 21, 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. 30358 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–51–000]

Panhandle Eastern Pipe Line Co.; Application

November 9, 1984

Take notice that on October 23, 1984, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84–51–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of the K N Energy, Inc. (K N) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to implement a transportation agreement between Applicant and K N dated August 12, 1983, as amended July 23, 1984 (Agreement). Pursuant to the Agreement, Applicant proposes to transport on behalf of K N, on an interruptible basis, a daily volume of natural gas not to exceed 2,000 Mcf from an existing point of receipt in Kiowa County, Kansas, to existing points of interconnection of the facilities of K N and Applicant in Reno County, Kansas, and Converse County, Wyoming. Applicant states that it would charge K N 3.90 cents per Mcf of gas for this service and that such charge is pursuant to a Commission-approved stipulation and agreement on Applicant's general rate filing in Docket No. RP82–58

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–30400 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–78–000]

Philadelphia Electric Co.; Filing

November 14, 1984.

Take notice that on November 5, 1984, Philadelphia Electric Company submitted for filing its certificate of concurrence to the October 30, 1984 filing by Allegheny Power Service Corporation of an agreement dated as of January 1, 1985. This agreement addresses limited term and

[5] We note, however, that any changes in the rates resulting from formulary adjustments or additional transactions pursuant to section 3.6 of the agreement will constitute changes in the rate schedules and require timely filings pursuant to part 35 of our regulations.

supplemental power and energy among Monogehela Power Company, The Potomac Edison Company, West Penn Power Company and Philadelphia Electric Company.

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 November 27, 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. 84-30359 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-93-000]

Potomac Electric Power Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 2, 1984 Potomac Electric Power Company (Pepco) tendered for filing under Part 35.12 of the Commission's Regulations an Agreement dated November 2, 1984 between Pepco and Public Service Electric & Gas Company (PSE&G) providing the general terms and conditions and establishing rates for the sale by Pepco to PSE&G of certain specified transmission capability.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed rates to become effective on less than 60 day's notice.

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 petitions or protests should be filed on or before November 27, 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. 84-30360 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-6-000]

Public Utilities Commission of the State of California, et al.; Petition for Declaratory Order

November 9, 1984.

Take notice that on November 1, 1984, the Public Utilities Commission of the State of California, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company ("California Parties") submitted for filing a petition for a declaratory order and any other relief the Commission may be empowered to grant.

The California Parties request that the Commission expeditiously issue an order declaring the following:

(a) The Bonneville Power Administration (BPA) Near Term Intertie Access Policy and the August 20, 1984 BPA decision to charge the highest nonfirm rate for Exportable Agreement sales are BPA rate and rate schedule changes;

(b) The Access Policy and August 20 action must be established by BPA through the ratemaking procedures in the Northwest Power Act, particularly section 7(a)(2) and (k) before becoming effective; and

(c) BPA's use of the Access Policy and August 20 action before receiving Commission confirmation and approval is in violation of law and Commission regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-30402 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-76-000]

Public Service Co. of Indiana, Inc.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 31, 1984, Public Service Company of Indiana, Inc. (PSI) tendered for filing pursuant to the Interconnection Agreement for Interim Power between PSI and American Municipal Power-Ohio, Inc. (AMPO) a First Supplemental Agreement to become effective December 25, 1984, pursuant to § 35.2 of the Commission's Regulations.

This First Supplemental Agreement modifies the Agreement as follows:

1. Deletes Section 1—Duration and inserts a new Section 1—Duration which excludes the restrictive language applicable to AMPO.
2. Deletes Paragraph 1.01 of Exhibit "A" Interim Power Rate Schedule and inserts a new Paragraph 1.01 which provides for an increase in PSI's charge for such service.

Copies of the filing were served upon AMPO, the Public Utility Commission of Ohio and Public Service Commission of Indiana.

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 November 27, 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. 84-30361 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC85-2-000]

Public Service Co. of New Mexico; Application

November 9, 1984.

The filing Company submits the following:

Take notice that, pursuant to section 203 of the Federal Power Act, on November 1, 1984, Public Service Company of New Mexico (PNM) filed an application seeking an Order or other appropriate determination for approval of the following transactions:

1. The sale by PNM to the Incorporated County of Los Alamos, New Mexico (County) of a 7.20% undivided ownership interest in the San Juan Unit 4 Main Power Transformer of the San Juan Generating Station located in San Juan County, New Mexico. The purchase price to be paid to PNM for the 7.20% interest in the Main Power Transformer as of December 31, 1984 is $148,787.41.

2. The sale by PNM to the County of two 115 kV–12,470/7,200 volt step-down transformers located in the Community of White Rock in the County. The value of the two transformers as of December 31, 1984, is $281,630.76.

3. The sale by PNM to the United States of America (Government), represented by the United States Department of Energy (DOE), of a PNM owned transmission line and associated equipment and facilities (TE Line) located in the County in exchange for a Government owned transmission line and associated equipment and facilities located in Santa Fe County, New Mexico, and other consideration. The negotiated value of the TE Line is $480,000.

PNM is an electrical utility incorporated in State of New Mexico, with its principal office in Albuquerque, New Mexico. The County is a body politic and corporate, existing as a political subdivision under the constitution and laws of the State of New Mexico.

After the acquisitions, the facilities will continue to be used to provide the same services now provided.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should file on or before December 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-30401 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC85-3-001]

Southwest Gas Corp.; Tariff Sheet Filing

November 14, 1984.

Take notice that on November 2, 1984, Southwest Gas Corporation (Southwest), P.O. Box 15015, 5241 Spring Mountain Road, Las Vegas, Nevada 89114–5015, filed in Docket No. TC85–3–001 Substitute Fifth Revised Tariff Sheet No. 25C to its FERC Gas Tariff, Original Volume No. 1.

Southwest states that it is filing the instant tariff sheet to correct certain errors in the Fifth Revised Tariff Sheet that it had filed on October 9, 1984, in Docket No. TC85–3–000. The prior filing was made pursuant to § 281.204(b)(2) of the Commission's Regulations, which requires interstate pipelines to update annually their indices of entitlements to reflect changes in the Priority 2 entitlements of essential agricultural users on their systems.

Southwest explains that in its prior tariff sheet filing it had inadvertently omitted the peak day and annual Priority 2(a) (Essential Agricultural Use) gas entitlements of one of its customers, Sierra Pacific Power Company. Southwest submits that these requirements are in fact 642 Mcf of gas on peak days and 118,832 Mcf annually. In its instant filing, Southwest tenders a substitute tariff sheet that reflects these entitlements.

Southwest requests that its tendered Fifth Revised Tariff Sheet No. 25C, as amended, be accepted for filing effective November 1, 1984.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before November 27, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30362 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-92-000]

Texas-New Mexico Power Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 2, 1984, Texas-New Mexico Power Company (TNP) tendered for filing an "Agreement For Electric Service" between TNP and Southwest Texas Electric Cooperative, Inc. (SWTEC) executed July 31, 1984. This Agreement provides for electric power transportation service to be rendered by TNP to SWTEC.

TNP states that TNP does not presently render any electric power service to SWTEC and therefore that the Agreement constitutes an initial rate schedule pursuant to § 35.12 of the Commission's regulations.

TNP proposes an effective date of January 2, 1985 for its wheeling obligations under the Agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 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. 84-30363 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP63-247-001]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition to Amend

November 9, 1984.

Take notice that on October 12, 1984, Tennessee Gas Pipeline Company, a

Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP63–247–001 a petition to amend the Commission's order issued May 16, 1963, in Docket No. CP63–247 pursuant to section 7(c) of the Natural Gas Act so as to authorize the replacement of an existing 10,500 horsepower compressor facility with two 3,450 horsepower compressors in Vernon Parish, Louisiana, all as more fully set forth in this petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission order issued May 16, 1963, it constructed, *inter alia,* Station 504, which consists of a single 10,500 horsepower compressor. Petitioner also states that the compressor is now obsolate and vendor support is no longer available; and, in addition, the unit would need extensive repairs in order to be operable beyond 1984. Petitioner states that the cost of such repairs would be prohibitive due to the unavailability of parts. Petitioner estimates the direct cost of the new compressor to be $7,016,000.

Petitioner submits that the proposed reduction in horsepower at the described location would be adequate to handle the throughput requirements of the 20–inch Kinder-Natchitoches line. Petitoner further states that the new engines would be designed to permit gas to be compressed in either direction on the Kinder-Natchitoches line.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–30404 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–97–000]

Tucson Electric Power Co.; Filing

November 14, 1984.

The filing company submits the following:

Take notice that Tucson Electric Power Company ("Tucson") on November 5, 1984, tendered for filing Amendment No. 1 to the Interconnection Agreement between San Diego Gas & Electric Company and Tucson Electric Power Company." The primary purpose of this Amendment No. 1 is to specify the terms, conditions and rates under which Tucson has agreed to sell 150 megawatts of firm system power to San Diego commencing October 28, 1984 resulting from a temporary and unusual operating condition on San Diego's system created by virtue of certain of San Diego's electric generating plants temporarily being out of operation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 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. 84–30364 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–582–00]

Union Electric Co.; Compliance Report

November 14, 1984.

Take notice that August 2, 1984, Union Electric Company (the Company) submitted for filing its Transmission Service Transaction 2 of Service Schedule B.

The Company states that since the filing of transmission Transaction 1, the City of Malden (the City) has requested that the Company provide additional transmission service, in excess of that set out in that transaction. Accordingly, the Company and the City have negotiated and signed a new transaction desiganted as Transmission Service Transaction 2.

It is the intent of the parties that all transmission service provided prior to June 1, 1984 was provided under the terms of Transaction 1, and that all transmission service provided on or after June 1, 1984, up to and including May 31, 1989, has been and will be provided under the terms of Transaction 2, subject to all of the terms and conditions set out therein.

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 November 26, 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. 84–30365 Filed 11–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CS85–2–000, et al.]

Viking Resources, Inc., et al.; Applications for "Small Producer" Certificates [1]

November 14, 1984.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before November 26, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party ir any hearing therein must file peitions to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS85-2-000	10/8/84	Viking Resources, Inc., P.O. Box 2441, Monroe, LA 71207.
CS85-3-000	10/15/84	Fargo Energy Corporation, 2101 IH 35 South, Suite 500, Austin TX 78741.
CS85-4-000	10/16/84	James F. Bragg, 241 Flanders Rd., Woodbury, CT 06798.
CS85-5-000	10/19/84	Preussag Energy Venture, a Texas General Partnership, 5222 FM 1960 West, Suite 230, Houston, TX 77069.
CS85-6-000	10/23/84	Marsh Engineering, Inc., P.O. Box 53614, Lafayette, LA 70505.
CS85-9-000	10/29/84	Turner Production Company, One Energy Square, #852, 4925 Greenville, Dallas, TX 75206.
CS85-10-000	11/1/84	Brewer Oil & Gas Company, Post Office Drawer 3088, Lake Charles, LA 70602.

[FR Doc. 84-30366 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-75-000]

Western Gas Interstate Co.; Application

November 9, 1984.

Take notice that on October 30, 1984, Western Gas Interstate Gas Company (Western), 900 United Bank Tower, 400 West 15th Street, Austin, Texas 78701, filed in Docket No. CP85-75-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western states that approximately 2.5 miles of its 6-inch line in Sherman County, Texas, would have to be replaced and relocated because of the enlargement and rerouting of U.S. Highway 287 through the existing pipeline right-of-way. Western proposes to replace and relocate the 2.5 miles of 6-inch line with 8-inch line at an estimated of $199,358,000 which would be financed from internally generated funds or short-term loans. It is stated that the 2.5-miles pipeline segment must be replaced and relocated immediately since the proposed highway right-of-way is to be clear by April 1, 1985.

Western states that the difference in the costs of replacing the existing line with the proposed 8-inch pipe compared to replacing it with 6-inch pipe are *de minimis* and that the benefit to Western's customers of replacing the 6-inch pipe with 8-inch pipe is substantially due to the cost savings associated with replacing the existing line with larger line today at 1984 costs in anticipation of needed capacity increases in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Western to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30348 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-71-000]

Wisconsin Public Service Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 29, 1984, Wisconsin Public Service Corporation (WPS) tendered for filing a Supplement dated October 10, 1984 to the Service agreement between WPS and Wisconsin Public Power Incorporated System, Sun Prairie, Wisconsin (WPPI) under WPS's FERC Electric Tariff, Original Volume No. 2.

WPS states that the proposed supplement provides for a one year change of the date of which WPPI may begin peak shaving from January 1, 1985 to January 1, 1986. This requires the revision of the January 1, 1985 date in Article 1.2 of the April 16, 1984 Supplement to the Service Agreement between WPPI and WPS.

WPS further states that the extension of the commencement date for peak shaving was requested by WPPI in a letter to WPS dated October 1, 1984. WPS also states that this request is reasonable and should be approved.

According to WPS, except for the revision of the peak shaving commencement date of January 1, 1986, this filing will result in no change in rates, schedules, or revenues of WPS. WPS proposed an effective date of January 1, 1985, for this Supplement.

Copies of this filing have been served upon WPPI and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such notions or protests should be filed on or before November 26, 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. 30367 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-440-001]

Abbott Chemicals, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 9, 1984.

On October 18, 1984, Abbott Chemicals, Inc. (Applicant) of P.O. Box 278, Barceloneta, Puerto Rico 00617, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.107 of the Commission's regulations. An application for this facility was originally submitted by Abbott Energy, Inc. on September 23, 1983, Docket No. QF83-440-000. Abbott Energy, Inc. withdrew their application October 18, 1984, and transferred ownership to Abbott Chemeicals, Inc. No determination has been make that the submittal constitutes a complete filing.

The topping-cycle congeneration facility is located in Barceloneta, Puerto Rico. The facility consists of a diesel generator set with waste heat recovery equipment. The useful thermal output in the form of steam and hot water, which is used for refrigeration, and process steam. The primary energy source is fuel oil No. 6. The electric power production capacity of the facility is 20,230 kilowatts. Operation of the facility began December 1983.

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 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. 84-30391 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-16-000]

Gilroy Energy Co., Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 9, 1984.

On October 10, 1984, Gilroy Energy Company, Inc. (Applicant), a wholly-owned subsidiary of Gilroy Foods, Inc. of P.O. Box 1088, Gilroy, California 95020, submitted for filing an application for certification of a facility as a qualifying congeneration 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 congeneration facility will be located at the food processing plant of Gilroy Foods, Inc., in the City of Gilroy, Santa Clara County, California. The facility will consits of a combustion turbine generator, a waste heat recovery boiler and an extraction steam turbine-generator. Extracted steam will be will be used for drying agricultural products, principally onions and garlic. The net electric power production capacity 121.7 MW is expected to be sold to Pacific Gas and Electric Company. The primary energy source will be natural gas. Operation of the facility will begin in early 1987. No electric utility, electric utility holding company or any combination thereof will have more than 50% ownership interest in the facility.

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. 84-30393 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-15-000]

Seadrift Cogeneration; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 9, 1984.

On Ocotber 9, 1984, Seadrift Cogeneration (Applicant) of 10375 Richmond, 3rd Floor, Houston, Texas 77042, 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 consitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Union Carbide Polyoleins chemcial plant at Seadrift, Texas. The facility will commence its initial operation in the third quarter of 1985 and will consist of two combustion turbine generators, two waste heat recovery boilers (WHRB) and one steam turbine-generator. Steam from the WHRB's and condensed steam as hot condensate will be utilized for chemical process thermal requirements at the chemical plant. The initial net electric power production capacity will be 84 MW. After 1989, the facility will be expanded to meet additional chemical; plant thermal requirements. The maximum net electric power production capacity of the expanded facility will be 312.4 MW. The primary energy source will be natural gas. No electric utility, electric utility holding company or any combination thereof will have more than 50% ownership interest in the facility.

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 publications 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. 84-30403 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-52-000]

Winooski Hydroelectric Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

November 9, 1984.

On October 22, 1984, Winooski Hydroelectric Company (Applicant), of 26 State Street, Montpelier, Vermont 05602, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The hydroelectric facility will be located on the Winooski River near the towns of East Montpelier and Berlin, Vermont. The power production capacity will be 800 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30349 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-504-000]

Allegheny Generating Co.; Order Accepting for Filing and Suspending Rates, Granting, Intervention, Granting Request for Waiver of Advance Filing Limitation, and Establishing Hearing Procedures

Issued: November 14, 1984.

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

On June 20, 1984, as completed on September 4, 1984,[1] Allegheny Generating Company (AGC), a wholly owned subsidiary of the Allegheny Power System (APS),[2] tendered for filing, as an initial rate schedule, a unit sale agreement which provides for the sale of capacity and energy from the Bath County Pumped Storage Project (Bath County) to the APS operating companies.[3] Bath County is currently being constructed by Virginia Electric and Power Company (VEPCO). AGC purchased a 20% ownership share of Bath County from VEPCO and has an option to purchase (by direct ownership or through a power purchase agreement) an additional 20% share of VEPCO's entitlement. AGC's proposed rate is a comprehensive cost of service formula. The proposed rates will generate annual revenues of about $83 million. The proposed agreement also provides for the passthrough by AGC to the APS operating companies of the purchased power costs of the additional 20% share of Bath County, should an additional purchase power agreement be entered with VEPCO. AGC requests an effective date of October 1, 1985, the date commercial operation of Bath County is expected to commence. AGC also requests waiver of the 120-day advance filing limitation to facilitate the revision of the requirements rate schedules, on file at the five retail commissions under whose jurisdiction the APS companies operate, to reflect the cost of the Bath County project.

Notice of the filing was published in the Federal Register,[4] with comments due on or before July 18, 1984. The Public Service Commissions of West Virginia, Maryland, and Pennsylvania filed timely notices of intervention, but raised no substantive issues. In addition, ARMCO, Inc. (an industrial customer of West Penn Power Company), the Maryland People's Counsel (MPC), and the Pennsylvania Office of Consumer Advocate (POCA) filed timely motions to intervene.

ARMCO contends that Bath County is an imprudent investment and will not be useful in providing service. ARMCO further asserts that the proposed unit sale agreement will result in unjust and unreasonable rates. POCA and MPC raise various cost of service issues.[5] In support of their request for suspension and a hearing as to AGC's submittal, POCA and MPC express concern that the State regulatory commissions will be preempted from exercising any review of the rates set at the Federal level, if the purchasing companies simply pass through the rates as purchased power and fuel expense.

In an untimely motion to intervene filed on July 26, 1984, Airco Industrial Gases and Airco Carbon (Airco) (industrial customers of West Penn Power Company) protest the proposed automatic adjustment formula rate. Airco states that it filed its motion to intervene late because it was not served with a copy of the filing on June 20, 1984 and had no opportunity to prepare the motion prior to notice in the Federal Register. Furthermore, Airco states that it was unsure as to what actions the Pennsylvania Commission would take on related Bath County issues.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely notices and motions to intervene serve to make the Public Service Commission of West Virginia, the Public Service Commission of Maryland, the Pennsylvania Public Utility Commission, ARMCO, MPC, and POCA parties to this proceeding. We also note that, as industrial customers of West Penn Power Company, one of the APS operating companies, Airco appears to have an interest in the outcome of this proceeding. Furthermore, given the relatively short delay in seeking to intervene and the early stage of this

[1] By letter dated August 2, 1984, the Director of the Office of Electric Power Regulation advised Allegheny Generating Company that its original submittal was deficient. The company responded to the letter directive, by providing additional information, on September 4, 1984.

[2] AGC is jointly owned by Monogahela Power Company, the Potomac Edison Company, and West Penn Power Company. All three of these companies are wholly owned by the Allegheny power System.

[3] *See* Attachment for rate schedule designations.

[4] 49 28308 (1984).

[5] The issues raised include: (1) The automatic adjustment nature of the cost of service formula; (2) the claimed return on common equity and the stated equity ratio; (3) inclusion in investment of plant which will allegedly not be used or useful; (4) the recovery of unspecified indirect expenses; and (5) excessive depreciation rates.

proceeding, we believe that granting Airco's motion should result in no undue prejudice or delay. Accordingly, we find that good cause exists to grant Airco's untimely motion to intervene.

Our preliminary review of AGC's initial rate schedule and the pleadings indicates that the submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept AGC's submittal for filing and suspend its operation as ordered below.[6]

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our preliminary review indicates that the proposed cost of service formula may not produce substantially excessive revenues. As noted above, AGC requests waiver of the 120-day advance filing limitation. The prohibition against filings made more than 120 days prior to the effective date is intended to insure that, when the Commission evaluates a proposed rate, the cost data reflecting the time period when the rate will be effective will not be highly speculative. In the instant docket, the proposed rate is a formulary rate which will pass through actual costs and thus the reliability of cost data projections is not relevant. Therefore, we shall grant the request for waiver. Accordingly, we shall suspend AGC's submittal for a nominal period, to become effective, subject to refund, on the in-service date of the Bath County project.

The Commission orders:

(A) Airco's motion to intervene is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) AGC's request for waiver of the 120-day advance filing limitation is hereby granted.

(C) AGC's initial rate schedule is hereby accepted for filing and suspended, to become effective, subject to refund, on the in-service date of the Bath County project.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of AGC's rates.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Rate Schedule Designations

Designation	Description
(1) Rate Schedule FERC No. 1.	Unit Sale Agreement.
(2) Supplement No. 1 to Rate Schedule FERC No. 1.	Appendix I.
(3) Supplement No. 2 to Rate Schedule FERC No. 1.	Amendment to Section 1.2(b)(i) of Appendix I included in letter dated 8-31-84.

[FR Doc. 84-30375 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-78-000]

Allegheny Power Service Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 31, 1984, Allegheny Power Service Corporation (Allegheny) tendered for filing an Agreement concerning limited term and supplemental power service among Monongahela Power Company (Monongahela), the Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Philadelphia Electric Company (Buyer).

The Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Buyer 344,000 kilowatts of limited term power and energy and 86,000 kilowatts of supplemental power and energy for 1985 or such other amounts as the parties may agree on from time-to-time in 1985 and in future periods.

The parties have requested an effective date of January 1, 1985, and therefore request waives of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 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. 84-30376 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-79-000]

Allegheny Power Service Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 31, 1984, Allegheny Power Service Corporation (Allegheny) tendered for filing an Agreement concerning limited term and supplemental power service among Monongahela Power Company (Monongahela), the Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Atlantic City Electric Company (Buyer).

The agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Buyer 92,000 kilowatts of limited term power and energy and 23,000 kilowatts of supplemental power and energy for 1985 or such amounts as the parties may agree on from time-to-time in 1985 and in future periods.

The parties have requested an effective date of January 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

[6] The Company characterizes its submittal as an initial rate schedule. Even if we were to adopt that characterization, the Commission has previously decided that it has suspension authority under section 205 of the Federal Power Act with respect to initial rate schedules. *Middle South Energy, Inc.*, 23 FERC ¶ 61,277, 61,572 (1983).

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 November 27, 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 invervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30377 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-73-000]

Carolina Power & Light Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 29, 1984, Carolina Power & Light Company (CP&L) tendered for filing revised rates for its resale customers that would produce a decrease in rates and charges to those customers. CP&L has also tendered for filing Revised Sheet Nos. 5-8A to its FPC Electric Tariff, First Revised Volume No. I, containing revised rates and charges applicable to CP&L's three municipal, one private distribution utility, 18 rural electric cooperatives, and one partial requirements sales-for-resale customers. The revised rates are contained in proposed Resale Service Schedules RS83-1B, RS783-2B, and RS83-3D for CP&L's cooperative municipal and private, and partial requirements customers, respectively. Accompanying resale fuel adjustment clause currently in effect, is applicable to all rate schedules.

CP&L states that the proposed changes are being made in order to change the manner in which CP&L collects gross receipts taxes from its sales-for-resale customers. The changes are necessitated by the July 6, 1984, action of the North Carolina General Assembly whereby it amended the law regarding the currently-effective 6% gross receipts tax for bills rendered on and after January 1, 1985. As of that date, the gross receipts tax will be 3.22%, and there will be a 3% sales tax. Rural electric cooperatives will be required to pay both taxes directly to the State. Municipalities will pay the sales tax portion directly, but CP&L will continue to collect gross receipts taxes from those customers. CP&L's private distribution utility customer will pay both the gross receipts and sales taxes directly.

The presently effective 6% gross receipts tax is included in the base rates contained in all three of CP&L's currently-effective sales-for-resale rate schedules. Proposed Rate Schedule RS83-1B removes the entire 6% from the rural electric cooperative rate and results in a rate reduction of $9,140,396 based on billing comparisons for a 1984 test period. Proposed Rate Schedule RS83-3D reflects the fact that the Fayetteville Public Works Commission will pay the sales tax directly but CP&L will collect the 3.22% gross receipt tax for sales to Fayetteville. This results in a reduction of $1,853,589 from that customer based on the billing comparisons for a 1984 test period. Proposed Rate Schedule RS83-2B has been adjusted to reflect applicable changes for the customers that buy under the rate schedule, resulting in a $65,146 reduction.

CP&L request that the proposed rates be accepted for filing without suspension to become effective for billings on and after January 1, 1985, which coincides with the date on which the North Carolina law changes become effective.

Copies of the appropriate portions of the filing have been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

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 Captiol 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 November 26, 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. 84-30378 Filed 11-19-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. ER85-80-000]

Centel Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 31, 1984, Centel Corporation (Centel) Southern Colorado Power Division (Colorado) tendered for filing Electric Rate Adjustment No. 4 applicable to sales of power and energy to the City of Las Animas. Adjustment No. 4 reflects decrease in revenues from sales to Las Animas of $74,780.69 based on the 12 month period ending December 31, 1984. Centel requests an effective date of January 1, 1985.

Copies of the filing were served upon the City of Las Animas and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 27, 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. 84-30379 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-103-000]

Consolidated Edison Company of New York, Inc.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 5, 1984, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing a supplement (the "Supplement") to its Rate Schedule FERC No. 69, an agreement to provide transmission service to The Connecticut Light and Power Company and Western Massachusetts Electric Company, the companies of the Northeast Utilities system (the "NU Companies"). The Supplement increases the transmission charge from 2.6 mills to 2.7 mills per kilowatthour for interruptible

transmission of power and energy purchased by the NU Companies from companies in the Pennsylvania-New Jersey-Maryland power pool. The Supplement would increase annual revenues from jurisdictional service during Period I by $501.70.

Con Edison requests waiver of the notice requirements of §35.3 of the Commission's requlations so that the Supplement can be made effective as of September 15, 1984.

Con Edison states that a copy of this filing has been served by mail upon the NU Companies.

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 November 27, 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. 84-30380 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-104-000]

Consolidated Edison Company of New York, Inc.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 5, 1984, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing a supplement (the "Supplement") to its Rate Schedule FERC No. 57, an agreement to provide transmission service to The Connecticut Light and Power Company and Western Massachusetts Electric Company, the companies of the Northeast Utilities system (the "NU Companies"). The Supplement increases the transmission charge from 2.6 mills to 2.7 mills per kilowatthour for interruptible transmission of power and energy purchased by the NU Companies from Central Hudson Gas & Electric Corporation. The Supplement would increase annual revenues from jurisdictional service during Period I by $66.80.

Con Edison requests waiver of the notice requirements of § 35.3 of the Commission's regulations so that the Supplement can be made effective as of September 15, 1984.

Con Edison states that a copy of this filing has been served by mail upon the NU Companies.

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 November 27, 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. 84-30381 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-679-000]

Florida Power Corp.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Motion for Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued November 13, 1984.

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

On September 14, 1984, Florida Power Corporation (FPC) tendered for filing a proposed two-step increase in its wholesale power and transmission rates to its investor-owned, municipal, and cooperative customers.[1] Step 1, reflecting the commencement of commercial operations at the company's Crystal River No. 5 Generating Unit, would increase jurisdictional revenues by about $10.5 million (9.8%), based on a calendar 1985 test year. Step 2, representing the inclusion of 50% of CWIP in rate base, would incease FPC's wholesale rates by an additional $1.1 million, for a total increase of $11.6 million (10.8%). The company requests an effective date of November 15, 1984,[2] for the Step 1 rates, and January 1, 1985, for its Step 2 rates. In addition, FPC's filing contains several proposed changes in the terms and conditions of service.

Notice of FPC's filing was published in the **Federal Register,**[3] with comments due, after extension, on or before October 12, 1984. Timely motions to intervene were filed by Seminole Electric Cooperative, Inc. (Seminole) and, jointly, by the Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Wauchula, Williston, Gainesville, Tallahassee, St. Cloud, Lakeland, and Kissimee, Florida, and the Sebring Utilities Commission (Florida Cities).

Seminole and the Florida Cities request a five month suspension of both the Step 1 and 2 rates. In support of their position, they have raised many cost of service issues, including allegations that FPC has: (1) Used an excessive rate of return; (2) overstated cash working capital needs, fuel stock inventory, demand projections, and expenses for operations and maintenance, taxes, depreciation, and nuclear decommissioning; (3) improperly calculated amounts relating to deferred taxes; (4) improperly included prior-period nuclear maintenance expenses, certain production CWIP, and certain administrative and general expenses; (5) included 17 oil-fired units in "plant held for future use;" (6) attempted to reflect retroactively differences in treatment by this Commission and the Florida Public Service Commission of CWIP and tax normalization; and (7) chosen an unnecessarily expensive method for funding spent nuclear fuel burned in prior periods.

In addition, Seninole protests the absence of voltage discounts and interruptible rates in FPC's tariffs. The Florida Cities move that the Commission summarily reject the company's

[1] Under FPC's electric tariff, the utility provides either full requirements or combined partial requirements and transmission service to 13 municipal customers. Seven other customers receive transmission service under the tariff in connection with service under separate interconnection agreements. FPC's filing also contains revisions to separate contracts under which Reedy Creek Utilities Company and the City of Wauchula, Florida, receive partial requirements service. Finally, FPC proposes revisions to the contract under which Seminole Electric Cooperative, Inc., takes transmission and distribution service, and supplemental service.

[2] FPC states that the Crystal River No. 5 unit is expected to commence commercial operations on November 1, 1985; in the event that the date changes, the company will notify the Commission and the affected wholesale customers.

[3] 49 FR 38180 (1984).

inclusion of $1,164,000 attributable to a gross receipts tax imposed by the State of Florida in the event that FPC's rates are not suspended beyond December 31, 1984. The Florida Cities state that, effective January 1, 1985, FPC will not be required to collect the tax from its wholesale customers. Since the company's rates are based on a calendar 1985 test year, the Florida Cities contend that the company's inclusion of the item in rates to be collected during 1984 is improper. The Florida Cities also challenge several tariff provisions proposed by FPC as anticompetitive or discriminatory.[4] Finally, the Florida Cities request that the Commission institute price squeeze procedures.

On October 23, 1984, FPC filed an answer. The company acknowledges that it has erred in amortizing deferred tax reserve deficiencies and including certain membership and industry association dues as part of administrative and general expenses. As to these two items, FPC states that it accepts summary disposition but that filing of revised rates is unnecessary because the adjustments do not raise the company's return on equity above a level which is just and reasonable. The company opposes, however, the requests for maximum suspension of its proposed rates or summary disposition as to the inclusion of amounts attributable to State gross receipts taxes for any period during 1984 that FPC's rates will be collected.

On November 5, 1984, FPC, Seminole, and the Florida Cities notified the Commission that they had reached a settlement in principle of all rate level issues, reserving the terms and conditions of service for further negotiation and litigation if necessary. As a result, Seminole and the Florida Cities have withdrawn their request for a five month suspension of the company's filing and support FPC's request for a one day suspension of its proposed rates. On November 6, 1984, counsel for FPC submitted a letter specifying the proposed settlement revenue levels which counsel states will be applied to all ot its wholesale customers.

[4] Specifically, the Florida Cities challenge provisions which (1) permit the company to refuse service for end-use load not previously served at wholesale or retail if this would increase FPC's unit cost of service to existing customers; (2) allow FPC to charge partial requirements customers who have previously given notice of conversion to full requirements service for the additional load in the event that the conversion does not occur as scheduled; and (3) require one year's notice of termination of service, such notice to given within four months of FPC's filing of any changes in the tariff.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[5] the timely, unopposed motions of Seminole and the Florida Cities serve to make them parties to this proceeding.

With respect to the Florida Cities' motion for summary disposition, we note that FPC, of its own decision, has chosen to base its proposed rates on a 1985 test year in which the company will not be paying a gross receipts tax. While our regulations allow a utility to select a test year which begins beyond the proposed effective date for its rate increase, they do not permit the utility to get the best of both worlds by also including an out-of-pocket expense from a prior year. Because FPC has improperly included an out-of-test-year expense in its cost of service, we shall grant the Florida Cities' motion for summary disposition and require FPC to revise its rates accordingly. In light of FPC's agreement with the customers' claims as to calculation of the *South Georgia* adjustment and administrative and general expenses, and because we are requiring the company to make a compliance filing reflecting the summary disposition ordered above, we shall direct FPC to further revise its rates to reflect the additional two adjustments.[6]

Our preliminary review of FPC's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we stated that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust and unreasonable, but may not generate substantially excessive revenues, as defined in *West Texas*. We also stated in that order that we would consider extraordinary circumstances, such as where the customers specifically request a nominal suspension for settlement purposes. Based upon the intervenors' consent to a one day suspension, we shall suspend the proposed Step 1 and 2 rates, as modified, for those customers for one day, to become effective, subject to refund, on November 16, 1984, and January 2, 1985, respectively. Further, as to those customers which have not intervened and which are not parties to the November 5, 1984, request for a one day suspension, we shall also suspend the proposed Step 1 and 2 rates, as modified, for one day, based on: (1) The company's commitment to offer the settlement provisions to all affected customers, (2) our expectation that the company will seek to implement the settlement rates on an interim basis in the near future, and (3) the reduced revenue levels stated in FPC's November 6 letter. However, as to any non-intervening or non-settling customer, we expressly reserve the option to revisit the suspension question if the lower settlement rates are not implemented promptly in lieu of the filed rates.

In light of the price squeeze allegations, we shall institute price squeeze procedures and phase those proceedings, in accordance with Commission policy and practice as established in *Arkansas Power & Light Co.*, 8 FERC ¶ 61,131 (1979).

The Commission orders:

(A) The Florida Cities' motion for summary disposition is herby granted. Within thirty (30) days of the date of this order, FPC shall file revised tariff sheets and related cost-supporting statements reflecting the exclusion of State gross receipt taxes from the company's cost of service, as well as FPC's recalculation of the amortized deferred tax reserve deficiencies and its administrative and general expenses.

(B) FPC's proposed Step 1 and Step 2 rates, as modified by Ordering Paragraph (A), are hereby accepted for filing and suspended for one day from the proposed effective dates, to become effective, subject to refund, on November, 16, 1984, and January 2, 1985, respectively.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), and public hearing shall be held concerning the justness and reasonableness of FPC's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

[5] 18 CFR 385.214.

[6] We also note that, as to the disputed terms and conditions, FPC has agreed not to implement them until the parties have resolved their differences. In the event that the parties are unable to do so, FPC stats that it will defer implementation until the Commission issues a final decision on the merits of its proposal.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30382 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-69-000]

Florida Power and Light Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 29, 1984, Florida Power and Light Company (FP&L) tendered for filing the following documents:

(1) Attachment A to Agreement for Full Requirements Electric Service by Florida Power & Light Company to Seminole Electric Cooperative, Inc. (Full Requirements Service Agreement).

(2) Exhibit A to the Full Requirements Service Agreement for the Black Creek delivery point.

(3) Exhibit A to the Full Requirements Service Agreement for the Calusa delivery point.

(4) Revised Sheet Nos. 23, 24 and 25 of Florida Power & Light Company FERC Electric Tariff First Revised Volume No. 1 (Tariff).

(5) Attachment C to Aggregate Billing Partial Requirements Service Agreement between Florida Power & Light Company and Seminole Electric Cooperative, Inc. (ABPRSA).

(6) Exhibit A to the ABPRSA for the Black Creek delivery point.

(7) Exhibit A to the ABPRSA for the Calusa delivery point.

FP&L states that the above listed documents provide for the terimination of full requirements electric service at the Calusa and Black Creek delivery points under the Full Requirements Service Agreement and FP&L's Tariff and provide for the commencement of partial requirements electric service at such delivery points under the ABPRSA as of October 29, 1984.

This filing is being made in accordance with the terms and conditions of the ABPRSA and the Full Requirements Service Agreement previously filed with the Commission in Docket No. ER84-379-000 and for the reasons stated above. Should a waiver of Section 35.3 of the Commission's Regulations be necessary, FP&L respectfully request that such waiver be granted to this extent that Items 1 through 7, above, be made effective October 29, 1984.

FP&L states that this filing has been served upon each of its wholesale customers.

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, NW., 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 November 26, 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. 84-30383 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-101-000]

Florida Power & Light Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on November 5, 1984, tendered for filing a contract executed by both parties entitled "Contract for Interchange Service Between Florida Power & Light Company and City of Gainesville, Flordia". FPL states that this Contract supersedes the existing contract which is on file with the Commission, designated as FPL Rate Schedule FERC No. 27, as supplemented.

FPL respectfully requests that the proposed Contract be made effective on October 29, 1984 and therefore requests waiver of the Commission's notice requirement. FPL states that the City of Gainesville, Florida supports FPL's requests for such waiver. According to FPL, a copy of this filing was served upon the City of Gainesville, Florida.

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 November 27, 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. 84-30384 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-105-000]

Green Mountain Power Corp.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that Green Mountain Power Corporation (Green Mountain) on November 5, 1984, filed a Notice of Termination of its Rate Schedule FERC No. 69 with respect to Berlin gas turbine, between Green Mountain Power Corporation (Seller) and Central Vermont Public Service Corporation (Buyer) dated as of April 6, 1978. Under the terms of the purchase agreement, the sale took place in the period from April 1, 1978 to April 30, 1978.

Green Mountain states that the Notice of Termination was served on the contracting parties and the regulatory commissions of the State of Vermont, where the contracting parties operate. Green Mountain has also requested a waiver of the notice requirement, so that the Notice of Termination will be made

effective as of the April 30, 1978 termination date provided for in the purchase agreement with Central Vermont Public Service Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 November 27, 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. 84-30385 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-70-000]

Iowa Power and Light Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 29, 1984, Iowa Power and Light Company (Iowa) tendered for filing a Notice of Cancellation of a Participation Power Agreement (Agreement) dated April 28, 1972 between Iowa and Iowa-Illinois Gas and Electric Company (Iowa-Illinois), designated as Iowa Power and Light Company Rate Schedule No. 43.

Iowa states that the Agreement expired on its own terms on June 1, 1973; that the Notice of Cancellation was mailed to Iowa-Illinois, the only purchaser from Iowa under the Agreement; and that the filing was mailed to Iowa-Illinois and the Iowa State Commerce Commission.

Iowa requests an effective date of June 1, 1973 and therefore requests a waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 26, 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. 84-30386 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-5-000]

Louisiana Public Service Commission v. Arkansas Power & Light Co. et al.; Complaint

November 14, 1984.

The filing Company submits the following:

Take notice that on October 29, 1984, the Louisiana Public Service Commission, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (18 CFR 385.206) filed a Complaint against Arkansas Power & Light Company, Mississippi Power & Light Company, Middle South Utilities, Inc. and Middle South Service, Inc. The Louisiana Commission requests that the Commission institute a proceeding under Section 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) and make the following determinations:

a. A Unit Power Purchase Agreement for the sale of 31.5% of Independent Unit No. 2, a coal-fired electric generating unit located in the State of Arkansas, between Arkansas Power & Light Co. and Mississippi Power & Light Co. for a five year term with an option for an additional 20 years term, violates the requirement of a regulatory filing of rate and contractual changes under Section 205 of the Federal Power Act (16 U.S.C. 824d) and Section 205 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.205), is discriminatory, unfair an unreasonable and violates the Federal Power Act, violates the traditional arrangements among the Middle South Utilities System operating companies, and violates the agreement proposed by Middle South Services, Inc. to govern transactions among the Middle South Utilities operating companies;

b. The Unit Power Purchase Agreement for the sale of Independent Unit No. 2 be declared null and void; and,

c. Formal proceedings be stayed pending the final resolution of FERC Docket No. ER82-483-000, except that dicovery be permitted for the perpetuation of testimony for future use in this proceeding and the case be assigned to a presiding administrative law judge to presiding administrative law judge to preside over the discovery process.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 14, 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 complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-30387 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-96-000]

Mississippi Power & Light Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 5, 1984 Mississippi Power & Light Company (MP&L) tendered for filing a fully executed Agreement for Establishment of an Additional SMEPA Off-System Delivery Point dated August 22, 1984, between MP&L and South Mississippi Elecric Power Association (SMEPA). This Agreement supplements the Interchange Agreement entered into between MP&L and SMEPA July 18, 1979, and filed with the Commission in FERC Docket No. ER79-529. Under that Interconnection Agreement, MP&L agreed among other things to transmit capacity and energy over MP&L's transmission system from SMEPA facilities to SMEPA Off-System Delivery Points. The August 22, 1984 Agreement establishes an additional Off-System Delivery Point to which SMEPA Capacity and energy is to be transmitted over MP&L's transmission system. The proposed change does not affect the present level of billings on service rendered by MP&L to SMEPA under the service schedules of the MP&L-SMEPA Interconnection Agreement.

To the extent necessary, MP&L requests waiver of the Commission's

notice requirements to permit the Agreement to become effective as of August 22, 1984.

A copy of this filing has been mailed to SMEPA and to the Mississippi Public Service Commission, according to MP&L.

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 November 27, 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. 84-30388 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-74-000]

Montaup Electric Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on October 30, 1984, Montaup Electric Company (Montaup) tendered for filing an admendment of the Unit Sales Contract between Montaup and Taunton Municipal Lighting Plant for the sale of capacity and energy from Canal Unit No. 2 (FERC Rate Schedule No. 70). The amendment extends this unit sale for a three-year period beginning November 1, 1984. The percentage (1.7123-10 mw) remains the same as in the original Agreement. The capacity charge is $4.48 per kilowatt per month. Attachment A provides the cost justification for this figure.

Montaup requests waiver of the 60-day notice requirement.

According to Montaup copies of the filing have been served upon the Massachusetts Department of Public Utilities and Taunton Municipal Lighting Plant.

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 November 27, 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. 84-30389 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-106-000]

Montaup Electric Co.; Filing

November 14, 1984.

The filing Company submits the following:

Take notice that on November 5, 1984 Montaup Electric Company ("Montaup" or "the Company") tendered for filing rate schedule revisions incorporating a new M-10 rate for all-requirements service to Montaup's affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to three non-affiliated customers: the Town of Middleborough in Massachusetts and Pascoag Fire District and Newport Electric Corporation in Rhode Island. The rate schedule revisions provide for a first-step increase of $16.6 million, or 6.4%, and a second-step increase of $17.6 million, or an additional 0.4%. Montaup requests that the first-step rates be made effective on January 5, 1985 and that the second-step rates be made effective on January 6, 1985.

This increase is requested to offset the increase in Montaup's costs over the 1984 level being recovered through the M-9 rates and to include additional construction work in progress ("CWIP") in rate base pursuant to section 35.26(c)(3) of the Commission's regulations. The filing (1) increases the demand charge from $15.02708 per KW/month as provided in the M-9 rate as currently charged to Montaup's affiliates to $17.21104 per KW/month in the first step and $17.34467 in the second step, (2) decreases the energy charge from 3.0275 cents per kwh as provided in the M-9 rate to 2.7674 cents per kwh, and (3) incorporates changes in the fuel adjustment clause to reflect recent changes in the Commission's regulations governing fuel clauses. The filing also includes related changes in agreements under which Eastern Edison and Blackstone rent transmission facilities to Montaup and Montaup rents such facilities to Eastern Edison.

Montaup's filing was served on the affected customers and the Massachusetts Department of Public Utilities.

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, 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 November 27, 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. 84-30390 Filed 11-19-84; 8:45 am]

BILLING CODE 6717-01-M

[OPTS-53064; FRL-2673-3]

Premanufacture Notices; Monthly Status Report for July 1984

Correction

In FR Doc. 84-24751 beginning on page 36913 in the issue of Thursday, September 20, 1984, make the following corrections:

1. On page 36914, Table I, PMN No. 84-966, second column, "Oligomeiric" should read "Oligomeric"; and in PMN No. 84-986, second column, "(4,8-disulfo-2-maphthylazo)" should read "(4,8-disulfo-2-naphthylazo)".

2. On page 36916, Table II, PMN No. 84-863, second column, "Portein" should read "Protein", and in PMN No. 84-878, second column, "milamine" should read "melamine".

3. On page 36918, Table IV, PMN No. 83-681, second column, "Carbocyelic" should read "Carbocyclic"; and in PMN No. 84-540, second column, "Siloyanes" should read "Siloxanes".

4. On page 36919, Table V, PMN No. 84-274, second column, "[—1-XO-2-propenyl)OXY]" should read "[(1-OXO-2-propenyl)OXY]".

BILLING CODE 1505-01-M

[SAB-FRL-2721-1]

Clean Air Scientific Advisory Committee, Science Advisory Board, Subcommittee on the National Ambient Air Quality Standard Setting Process; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Commmittee's (CASAC) Subcommittee on the National Ambient Air Quality Standard (NAAQS) Setting Process will be held on December 6–7, 1984 in Room 1101W, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The meeting will begin at 1:30 p.m. on December 6, 1984 and adjourn at 12:00 noon on December 7, 1984.

The purpose of the meeting is to examine the process whereby the Agency sets NAAQS's. The Subcommittee will gather information from the Agency and the interested public on means to improve this process.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend, make a presentation, or obtain information should contact Mr. A. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board, by close of business November 30, 1984. The telphone number is (202) 382–2552.

Dated: November 13, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–30426 Filed 11–19–84; 8:45 am]

BILLING CODE 6560–50–M

Science Advisory Board, Executive Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held on December 5–6 in Room 1101 West Tower, EPA Headquarters, 401 M Street, SW, Washington, D.C. The meeting will begin at approximately 9:15 am on December 5 and will adjourn at approximately 12 noon on December 6.

The agenda for the meeting will include reports of Subcommittees and Committees including: Environmental Health Committee review of Health Assessment Documents for Cadmium, Manganese, Chromium, Trichloroethylene, Perchloroethylene, Vinylidene Chloride, Ethylene Oxide, and Ethylene Dichloride. The Committee will also discuss the conclusions of the Environmental Effects, Transport and Fate Committee review of incineration of hazardous wastes at sea and on land, Research Outlook 1985, and other items of Member interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Dr. Terry F. Yosie, Director, Science Advisory Board, (202) 382–4126 before close of business November 26, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

November 13, 1984.

[FR Doc. 84–30425 Filed 11–19–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–5150; TSH–FRL 2693–7]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 84–27141, beginning on page 41100, in the issue of Friday, October 19, 1984, make the following corrections: on page 41100, column three, under **PMN 84–1230**, eighth line, "<" should read ">". On page 41101, column two, under **PMN 85–10**, first line, "Point" should read "Pont".

BILLING CODE 1505–01–M

[PF–388; PH–FRL 2693–8]

Certain Companies; Pesticide Tolerance Petitions

Correction

In FR Doc. 84–27140, beginning on page 40658, in the issue of Wednesday, October 17, 1984, make the following corrections:

1. On page 40659, column one, under "**I. Initial Filings**", paragraph 1., fifth line, the last word should read "pendimethalin", and on the seventh line, the first word should read "dinitrobenzenamine".

2. In paragraph 2., last line before the table, the first word should read "Pyridazinone".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53063: FRL—26456–6]

Premanufacture Notices Monthly Status Report for June 1984

Correction

In FR Doc. 84–20420 beginning on page 31138 in the issue of Friday, August 3, 1984, make the following corrections:

1. On page 31189, Table I, third column, entries one, two, and three, "(6/15/83)" should read "(6/15/84)".

2. On the same page, Table I, second column, entry four, "49 FR 24782 (6/15/83)" should be removed; and in the third column, entry four, "Do" should read "49 FR 24782 (6/15/84)".

3. On the same page, Table I, third column, entries five through eighteen, "(6/15/83)" should read, "(6/15/84)".

4. On the same page, Table I, PMN No. 84–815, second column, "4,4'-diphenylemthane" should read "4,4'-diphenylmthane" and "polyporpozxylated" should read "polypropoxylated"; PMN No. 84–831, second column, "Strene" should read "Styrene"; PMN No. 84–838, second column, "naphthalenecartboxamide" should read "naphthalenecarboxamide"; PMN No. 84–848, second column, "Alyl" should read "Alkyl"; PMN No. 84–854, second column, "(octadecylozxy)" should read "(octadecyloxy)"; and PMN No. 84–469, second column, "4-Acetylamino)" should read "4-Acetylamino)".

5. On page 31140, Table I, PMN No. 84–882, second column, "dochloro" should read "dichloro".

6. On the same page, Table II, PMN No. 84–671, second column, "carbonmonocylic" should read "carbomonocylic"; PMN No. 84–701, second column, "polymer" should read "polymer"; PMN No. 84–707, second column, "Polyesterimide" should read, "Polyamideimide"; PMN No. 84–708, second column, "gylcerin" should read, "glycerine"; PMN No. 84–713, second column, "Acrulated" should read, "Acrylated"; PMN No. 84–722, second column, "1-Naphthalenesulfonic" should read "1-Naphthalene sulfonic"; and "azol-barium" should read "azo]-barium".

7. On page 31141, Table II, PMN No. 84–734, second column, "terpolymen" should read "terpolymer"; and PMN No. 84–787, second column, "Hydrocyl" should read "Hydroxyl".

8. On page 31142, Table III, PMN No. 84–734, second column, "resin" should follow "phenolic".

9. On page 31143, Table IV, PMN No. 83–1232, second column, "diamines, and" should read "diamines, an".

10. On the same page, Table V, PMN No. 82–388, second column should end with "zinc salt.".

11. On page 31144, Table V, PMN No. 84–306, second column, "oxy', methyl ester" should read, "oxy-, methyl ester".

BILLING CODE 1505-01

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for coments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–010676.

Title:
Mediterranean /U.S.A. Freight Conference.

Parties:
Atlanttrafik Express Service
Achille Lauro
C.I.A. Venezolana de Navegation
Compania Trasatlantica Spanish line, S.A.
Constellation Lines/Medamer Shipping Co., Ltd.
Costa Line
d'Amico Societa di Navigazione per Azioni
Farrell Lines, Inc.
Flota Mercante Grancolombiana S.A.
"Italia" Societa' Per Azioni di Navigazione
Jugolinija
Jugooceanija
Lykes Bros Steamship Co., Ltd.
Nedlloyd Lines
Nordana Line/Danneborg Lines AS
Sea-Land Service, Inc.

Synopsis: The proposed agreement would establish a new conference agreement in the trade from various ports and points in countries bordering on the Mediterranean Sea and from points in Continental Europe to United States Atlantic and Gulf ports, to U.S. inland and coastal points via such ports and to ports and points in Puerto Rico. Existing conference agreements in this trade in which the parties participate will be terminated within ninety days of the effectiveness of Agreement 202–010676.

Agreement No. 202–010677.

Title: Iberian-U.S. North Atlantic Ports Westbound Stabilization Agreement.

Parties:
The Iberian/U.S. North Atlantic Westbound Freight Conference (Agreement No. 202–009615)
A.P. Moller-Maersk Line

Synopis: The proposed agreement would permit the parties to agree upon rates and tariff provisions in the trade from Spanish and Portuguese ports and points in Continental Europe via either direct or tansshipment service to U.S. Atlantic ports in the Hampton Roads/Portland, Maine range an to U.S. coastal and interior points via such ports. It would also permit the parties to discuss and exchange statistics and to share facilities in connection with the functions permitted by the agreement.

Agreement No. 203–010678.

Title: Mediterranean—U.S. South Atlantic and Gulf Ports Westbound Stabilization Agreement.

Parties:
The Med-Gulf Conference (Agreement No. 202–009522)
A.P. Moller-Maersk Line

Synopsis: The proposed agreement would permit the parties to agree upon rates and tariff provisions in the trade from Italian, French Mediterranean, Portuguese, Spanish and Spanish North African Ports (excluding Spanish ports north of Portugal) and all points in Continental Europe to U.S. South Atlantic ports in the Moorehead City, North Carolina/Brownsville, Texas range and to U.S. coastal and interior points via such ports. It would also permit the parties to discuss and exchange statistics and to share facilities in connection with the functions permitted by the agreement.

Agreement No. 203–010679

Title: Italy-U.S. North Atlantic Ports Westbound Stabilization Agreement

Parties:
The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (Agreement No. 202–002846)
A.P. Moller-Maersk Line

Synopsis: The proposed agreement would permit the parties to agree upon rates and tariff provisions in the trade from ports and points in Italy and Yugoslavia and other points in Continental Europe to U.S. ports in the Hampton Roads/Portland range and to U.S. coastal and inland points via such ports. It would also permit the parties to discuss and exchange statistics and to share facilities in connection with the functions permitted by the agreement.

By Order of the Federal Maritime Commission.

Dated: November 15, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–30413 Filed 11–19–84; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–002846–056.

Title: West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference.

Parties:
Atlanttrafik Express Service
C.ia Trasatlantica-Spanish Line
Constellation Lines, S.A.
Costa Line
Egyptian Navigation Co., Ltd.
Farrell Lines, Inc.
"Italia" Societa' per Azioni di Navigazione
Jugolinija
Nedlloyd Lines
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would terminate the agreement ninety days after the Mediterranean/U.S.A. Conference Agreement becomes effective.

Agreement No. 202–005660–039.

Title: Marseilles North Atlantic U.S.A. Freight Conference.

Parties:
Italia, S.p.A.N.
Nedlloyd Lines
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would terminate the agreement ninety days after the Mediterranean/U.S.A. Conference Agreement becomes effective.

By Order of the Federal Maritime Commission.

Dated: November 15, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-30414 Filed 11-19-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Community Bankshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board'a 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 (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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 banding practices." Any request of 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 or the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 7, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Community Bankshares, Inc.*, Cornelia, Georgia; to engage *de novo* in management consulting to depository institutions.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneaplois, Minnesota; to engage *de novo* through its wholly-owned subsidiary, FBS Brokerage Services, Inc. ("Company"), Minneapolis, Minnesota, in operating discount brokerage service. The securities brokerage services will be restricted to buying and selling securities solely as agent for the accounts of customers. Company may also offer other incidental services such as custodial services, individual retirement accounts, and cash management services. In addition, Company will engage in related securities credit activities pursuant to Regulation T. These activities will be conducted in the states of Minnesota, North Dakota, South Dakota, Wisconsin, Montana, Arizona, and Florida.

Board of Governors of the Federal Reserve System, November 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-30340 Filed 11-19-84; 8:45 am]

BILLING CODE 6210-01-M

First Kentucky National Corp. 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 § 225.14 of the Board's Regulation Y (12 CFR 225.14) 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 December 13, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Kentucky National Corporation*, Louisville, Kentucky; to acquire at least 25 and up to 100 percent of the voting shares of The American National Bank & Trust Company, Bowling Green, Kentucky.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Farmers and Merchants Financial Services, Inc.*, St. Paul, Minnesota; to acquire 81 percent of the voting shares of State Bank of Hanska, Hanska, Minnesota.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Community Bancorporation, Inc.*, Bellville, Texas; to acquire 100 percent of the voting share of the Waller Bank, N.A., Waller, Texas.

2. *Provident Bancorp, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Provident Bank-Denton, Denton, Texas, a *de novo* bank.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Columbia Bancorp, Inc.*, Avondale, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Columbia Bank, Avondale, Arizona.

Board of Governors of the Federal Reserve System, November 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-30341 Filed 11-19-84; 8:45 am]

BILLING CODE 6210-01-M

Suntrust Banks, 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 (12 CFR 225.14) 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 (12 CFR 225.21(a)) 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 office 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 Governor not later than December 7, 1974.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

SunTrust Banks, Inc., Atlanta, Georgia: to become a bank holding company by acquiring Sun Banks, Inc., Orlando, Florida, and Trust Company of Georgia, Atlanta, Georgia and its wholly owned subsidiary, Southern Bancshares, Inc., Atlanta, Georgia, thereby indirectly acquiring the following banks: Sun Bank, N.A., Orlando; Sun Bank/South Florida, N.A., Fort Lauderdale; Sun Bank/Palm Beach County, N.A., Delray Beach; Sun Bank/North Florida, N.A., Jacksonville; Sun Bank/Sun coast, N.A., St. Petersburg; Sun Bank/Southwest, N.A., Cape Coral; Flagship Bank of Fort Myers, North Fort Myers; Sun Bank of Tampa Bay, Tampa; Sun Bank of Ocala, Ocala; Sun Bank of Gainesville, Gainesville; Sun First National Bank of Polk County, Lake Wales; Flagship State Bank of Polk County, Fort Meade; Sun Bank of Volusia County, Daytona Beach; Sun Bank of St. Lucie County, Fort Pierce; Sun Bank of Miami, Miami; Flagship National Bank of Miami, Miami; Sun Bank of Pasco County, Zephyrhills; Sun Bank/West Florida, N.A., Pensacola; Sun Bank/Okeechobee, Okeechobee; Sun Bank/Indian River, N.A. Vero Beach; Sun First National Bank of DeFuniak Springs, DeFuniak Springs; Sun Bank/Highlands County, N.A., Avon Park; Sun Bank and Trust/Charlotte County, N.A., Port Charlotte; The Hillsboro Sun Bank, Plant City; Sun Bank/Naples, N.A., Naples; Sun Bank/Sarasota County, N.A., Sarasota; Sun Bank/Citrus County, N.A., Crystal River; Sun Bank/DeSoto County, N.A., Arcadia; and Sun Bank/Tallahassee, N.A., Tallahassee, all in Florida; and Trust Company Bank, Atlanta; The First National Bank of Athens, Athens-Madision; Trust Company Bank of Augusta, N.A., Augusta; Trust Company Bank of Carroll County, Bowdon-Carrollton; Trust Company Bank of Clayton County, Jonesboro; Trust Company Bank of Cobb County, N.A., Smyrna; The National Bank and Trust Company of Columbus, Columbus; Trust Company Bank of Douglas County, Douglasville; Trust Company Bank of Gwinnett County, Lawrenceville; Trust Company Bank of Henry County, N.A., McDonough; Trust Company Bank of Middle Georgia, N.A., Macon-Warner Robins; Trust Company Bank of Rockdale, Conyers; The First National Bank of Rome, Rome; Trust Company of Georgia Bank of Savannah, N.A., Savannah; Trust Company Bank of South Georgia, N.A., Albany-Thomasville; Trust Company Bank of Troup County, LaGrange; and First National Bank of Wayne County, Jesup; all located in Georgia; and The First National Bank of Brunswick, Brunswick-Waycross; and Trust Company Bank of Coffee County, Douglas, both located in Georgia; and The Rockmart Bank, Rockmart; and First National Bank of Thomson, Thomson, Georgia, both located in Georgia.

SunTrust Banks, Inc. has also applied to acquire Sunbank Service Corporation, Orlando; Sunbank Mortgage Company, Orlando; SBF Agency, Inc., Orlando; Trusco Data Systems of Florida, Inc., Gainesville, all located in Florida; and Trust Company Mortgage, Atlanta; and Trusco Properties, Inc., Atlanta, both located in Georgia; thereby engaging in the activities of data processing; making and servicing loans, acting as agent or broker for credit life, accident, and health insurance; investment or financial advice; and arranging commercial real estate equity financing.

In this regard, TCG Sub, Inc., Atlanta, Georgia, has applied to become a bank holding company by acquiring Trust Company of Georgia and its wholly owned subsidiary, Southern Bancshares, Inc., thereby indirectly acquiring all of the above listed banks owned by both acquirees, and has also applied to acquire the above listed nonbanking companies owned by Trust Company of Georgia. TCG Sub, Inc. will be the survivor of the merger with Trust Company of Georgia. Subsequently, TCG Sub, Inc. will be acquired by SunTrust Banks, Inc. Upon consummation, TCG Sub, Inc. will change its name to Trust Company of Georgia.

Board of Governors of the Federal Reserve System, November 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-30342 Filed 11-19-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Gastroenterology-Urology Devices Panel

Date, time, and place. December 11, 9 a.m., Rm 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11 a.m.; closed presentation of data, 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 2 p.m.; closed presentation of data, 2 p.m. to 3 p.m.; open commmittee discussion, 3 p.m. to 4 p.m.; Dr Norman T. Welford, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia

Ave., Silver Spring, MD 20910, 301–427–7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation. r

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 20, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for an apheresis device and an intragastric balloon.

Closed presentation of data. The committee may review and discuss trade secret or confidential commercial information in these premarket appproval applications. This portion of the meeting would be closed to permit discussion of this information (5 U.S.C. 552b(c) (4)).

Blood Products Advisory Committee

Date, time, and place. December 13 and 14, 8:30 a.m., Auditorium, Lister Hill Center, National Library of Medicine, Bldg. 38A, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, December 13, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 5 p.m.; closed presentation of data, December 14, 8:30 a.m. to 12:30 p.m.; closed committee deliberations 1:30 p.m. to 4:30 p.m.; Dr. Isaac F. Roubein, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4696.

General function of the committee. The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss (1) the reclassification of the following Category IIIA products under the provisions of 21 CFR 601.26: (a) Fibrinolysin and Desoxyribonuclease Combined (Bovine), Fibrinolysin and Desoxyribonuclease Combined (Bovine) with Chloramphenicol—License No. 1, Parke-Davis, Division of Warner-Lambert Co., (b) Whole Blood (Human) Heparin, (c) Fibrinolysin (Human), License No. 2, Merck Sharp and Dohme, Division of Merck & Co., Inc., and (2) safety and effectiveness data for the test for antibody to human T-lymphotropic virus (HTLV–III) and other issues relating to the possible use of the test in screening blood and plasma donor sera.

Closed presentation of data. The committee will hear trade secret or confidential commercial information relevant to investigational new drug applications and biological license applications for the test for antibody to HTLV–III. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee discussion. The committee will discuss trade secret or confidential commercial information relevant to investigational new drug applications and biological license applications for the test for antibody to HTLV–III. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Anesthetic and Life Support Drugs Advisory Committee

Date, time, and place. December 13 and 14, 8:30 a.m., Conference Rm. 6, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, December 13, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; closed presentation of data, December 14, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; James P. Hannan, Center for Drugs and Biologics (HFN–160), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3500.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology and surgery.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss: (1) "Guidelines for Clinical Investigation of Local Anesthetics"—consideration of preclinical and clinical cardiac and central nervous system toxicity screening procedures; (2) Forane (isoflurane) hepatotoxicity—clinical evidence; (3) incidence and nature of adverse reactions from inadvertent administration of lidocaine additive solutions as bolus injections; and (4) respiratory difficulty following Tracrium (atracurium) reversal.

Closed presentation of data. The committee will hear trade secret or confidential commercial information relevant to investigational new drug application 23,006. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open sesison may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files complied for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action, review of trade secrets and confidential commerical or financial information submitted to the agency; consideration of matters involving investgatory files complied for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not idependently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: November 14, 1984.

Mark Novitch,

Acting Commissioner of Food and Drug.

[FR Doc. 84–30243 Filed 11–19–84; 8:45 am]

BILLING CODE 4160–01–M

Public Workshop on Testing Anti-Anginal Agents; Public Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the public workshop to discuss methodology for testing the effectiveness of anti-anginal agents. Several interested persons who had been scheduled to attend to make important presentations have notified the agency that they would be unable to attend. The workshop, scheduled for November 26, 1984, was announced by notice in the **Federal Register** of October 25, 1984 (49 FR 42986). The agency anticipates that the matter of methodology for testing the effectiveness of anti-anginal agents will be considered at a future date, and appropriate notice will be made of any public workshop or meeting.

FOR FURTHER INFORMATION CONTACT: Joan C. Standaert, Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

Dated: November 14, 1984.

[FR Doc. 84–30325 Filed 11–15–84; 10:23 am]

BILLING CODE 4160–01–M

[Docket No. 84N–0267]

Sulfur Hexafluoride for Treatment of Cases of Complex Retinal Detachment; Invitation To Submit Premarket Approval Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has established an Orphan Products Development Office to identify and facilitate the availability of products useful in treating or diagnosing uncommon diseases. This office also will promote availability of products for common diseases where commercial sponsorship of the products either is lacking or is not totally committed to obtaining marketing approval. By this notice, the Orphan Products Development Office invites the submission of a premarket approval application under the Medical Device Amendments of 1976 for the use of sulfur hexafluoride in the treatment of cases of complex retinal detachment.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4903.

SUPPLEMENTARY INFORMATION: FDA will publish notices in the **Federal Register** inviting sponsorship of specific products when significant amounts of clinical data are available for those products. The notices will describe the available preclinical and clinical data and what additional studies, if any, may be needed for submission of an application for marketing approval.

Sulfur Hexafluoride

Sulfur hexafluoride is an inert gas injected into the vitreous to tamponade the retina which, in conjunction with other surgical measures, provides improvement in the success rate for cases of complex retinal detachment.

The incidence of retinal detachment in the United States as estimated by Haimann et al. (*Archives of Ophthalmology*, 100:289–292, February

1982) is approximately 12.4 per 100,000 population, or almost 30,000 cases yearly. The primary objective of repair is to bring the detached retina into apposition with the retinal pigment epithelium for a sufficient period of time to permit healing adequate to prevent redetachment. Different methods—scleral buckling, cryotherapy, laser therapy—have been used to accomplish this objective. In the majority of cases, these methods produce a good surgical result without any redetachment up to 6 months and with restoration of visual acuity. There are, however, patients who have complex detachments that fail with surgery or in whom a poor visual result is achieved. Additional procedures have proved beneficial in such patients.

Intraocular air, studied as a therapeutic measure for retinal detachment since 1911 (Ohm, *Archives of Ophthalmology*, 79:442–450, 1911), was reported to be useful by a number of investigators. Rohmer (*Archives of Ophthalmology*, 32:257–274, 1912) used intraocular air in eight cases, obtaining two reattachments; but at this time the need to create an irritative adhesion was not recognized. Arruga (*Archives of Ophthalmology*, 13:523, 1935) used surface diathermy to create the adhesion with air injection, but with giant tears he was concerned about passage of the air into the subretinal space and positioned the patient so that the air did not tamponade the break. At this time, the function of the air was believed to be to reduce subretinal fluid through compression. Rosengren (*Acta Ophthalmologia*, 16:177, 1938), using diathermy for the seal, emphasized the use of air for internal compression of the detached margin to the underlying pigment epithelium. Rosengren (*Acta Ophthalmologia, Kbh.*, 25:111–125, 1947) reported 6 years' experience in 100 cases, obtaining 88 percent reattachment in single breaks and 85 percent reattachment in dialysis. Arruga (*Arch. Soc. Oftal. Hisp.*, Amer., 22:813–819, 1962) reported an 87 percent successful reattachment rate in 262 cases.

Ten years' experience with the use of intraocular air in the clinical management of giant retinal tears, a subset of retinal detachments, is presented by Norton et al. (*American Journal of Ophthalmology*, 68:1011–1021, 1969), who describe the technique of injecting intravitreal air with and without scleral buckling.

Not all investigators were pleased with the results obtained from intraocular injection of air. Fineberg et al. (*Modern Problems of Ophthalmology*, 12:173–176, 1974) stated that air is frequently absorbed before a strong chorioretinal adhesion can form. The time needed for firm chorioretinal adhesion was studied by Lincoff and McLean (*British Journal of Ophthalmology*, 49:337–346, 1965). They showed in a study of cryosurgery for experimentally produced retinal detachment in rabbits that by the seventh day postattachment procedure there was a firm chorioretinal adhesion. Based on the work of Lincoff and McLean, the clinical community believes that an intravitreal gas persisting less than 7 days would be less than ideal. Constable and Swanson (*Archives of Ophthalmology*, 93:416–419, 1975) compared the persistence of gases—air, sulfur hexafluoride 70 percent with air mixture, and octafluorocyclobutane 70 percent with air mixture—placed in owl monkey eyes, and showed total resorption of air in 3.8 days, sulfur hexafluoride in 6.1 days, and octaflorocyclobutane in 10.2 days. Fineberg et al. (*American Journal of Ophthalmology*, 79:67–76, 1975) reported resorption of air in 5 to 6 days and sulfur hexafluoride in 10 to 11 days. These authors stressed that the expansion of sulfur hexafluoride when it is not diluted with air, results in an increase in intraocular pressure. They concluded that a 60:40 ratio of air to sulfur hexafluoride would prevent untoward increases in intraocular pressure. These physiologic studies, together with clinical observations that, when air was used, some retinas redetach after several days, led to the clinical presumption of the value of a longer lasting gas.

Norton (*Transactions of the American Academy of Ophthalmology and Otolaryngology*, pp. OP 85–OP 98, March–April 1973) described the historical and preclinical information that led to an interest in studying sulfur hexafluoride, the technique for its use, and possible adverse reactions, such as increased intraocular pressure and cataract formation. Cataract formation is possible with any gas in contact with the lens due to a drying effect. This finding has led investigators to recommend positioning of the patient so that the gas moves posteriorly and liquid bathes the back of the lens.

Sulfur hexafluoride for use as an adjunct to the management of cases of complex retinal detachment is a class III device requiring premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e) because on May 28, 1976, there was in effect for the product a notice of claimed exemption for an investigational new drug (section 520(l)(1)(C) of the act (21 U.S.C. 360j(l)(1)(C))).

FDA has considered the literature supporting the safety and effectiveness of sulfur hexafluoride as an adjunct to the management of cases of complex retinal detachment. The agency has determined, with the advice of its Ophthalmic Devices Panel, an FDA advisory committee, that the literature, together with the additional data and information described below, is sufficient to provide the basis for a premarket approval application (PMA) for the device. FDA cautions, however, that this determination does not constitute a decision by the agency to approve any PMA for the device. An applicant shall include in its PMA the following data and information:

(1) Full reports of all information, whether favorable or unfavorable, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show whether or not the applicant's device is safe and effective. Such reports shall include: (a) References to the papers cited in this notice which the applicant believes are applicable to its device under the conditions of use prescribed, recommended, or suggested in the device's proposed labeling; (b) copies of any other papers, published or unpublished, which the applicant believes are applicable to its device under the conditions of use prescribed, recommended, or suggested in the device's proposed labeling; and (c) all other valid scientific evidence of safety and effectiveness within the meaning of § 860.7 of FDA's regulations governing medical device classification procedures (21 CFR 860.7) which the applicant believes are applicable to its device under the conditions of use prescribed, recommended, or suggested in the device's proposed labeling.

The full reports shall be accompanied by a summary and an analysis demonstrating the safety and effectiveness of the applicant's device under the conditions of use prescribed, recommended, or suggested in the device's proposed labeling.

(2) A full statement of the components, ingredients, and properties and of the principle or principles of operation, of the applicant's device.

(3) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, the applicant's device. Such information shall include manufacturing control information sufficient to assure the identity, purity,

sterility, and stability of the applicant's device. Evidence of purity and sterility should include the manufacturer's processing and quality control procedures and final product test criteria, which will be maintained under current good manufacturing practice controls, and test data that show that these procedures result in an adequately pure and sterile product.

(4) Specimens of the device's proposed labeling, including a package insert providing a clear definition of indications for use, adequate directions for use, and any proposed contraindications and/or warnings. The proposed labeling shall comply with § 801.109 of FDA's regulations governing exemptions from adequate directions for use (21 CFR 8C1.109).

Copies of pertinent published papers are on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

FDA will be pleased to meet with potential sponsors to discuss the data and requirements. Manufacturers interested in submitting a premarket approval application should contact Roger Gregorio at the address above.

Dated: November 9, 1984.

Marion J. Finkel,

Director, Orphan Products Development.

[FR Doc. 84–30337 Filed 11–19–84; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; Meetings for Review of Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Cancer Center Support Review Committee.

Dates: November 29–30, 1984.

Place: Holiday Inn Hotel, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Times

Open: November 29, 8:30 a.m.–9:00 a.m.

Agenda: A review of administrative details.

Closed: November 29, 9:00 a.m.—recess.

November 30, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. John W. Abrell, Westwood Building, Room 826, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–9767.

Name of Committee: Cancer Research Manpower Review Committee.

Dates: January 17–18, 1985.

Place: National Institutes of Health, Building 31A, Conference Room 4, 9000 Rockville Pike, Bethesda, MD 20205.

Times

Open: January 17, 8:30 a.m.–9:00 a.m.

Agenda: To review of administrative details.

Closed: January 17, 9:00 a.m.—recess.

January 18, 8:30 a.m.—adjournment.

Closure reason: To review grant applications.

Executive Secretary: Dr. Leon J. Niemiec, Westwood Building, Room 832, National Institutes of Health, Bethesda, MD 20205.

Phone: 301/496–7978.

Dated: November 9, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–30644 Filed 11–19–84; 10:35 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Permit; Mote Marine Laboratory

Notice is hereby given that an applicant has applied in due form for a permit to take (harass) sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Mote Marine Laboratory, 1600 City Island Park, Sarasota, FL 33577

2. Type of Permit: Renewal and amendment of Marine Mammal take (harass) permit, PRT 2–9757

3. Name and Number of Animals: Manatee (*Trichechus manatus*) 200 takes, 40 animals, 5 harassments/animal

4. Type of Activity: Take (harassments)

5. Location of Activity: To include Western Coastal Florida from Cedar Key to Naples

6. Period of Activity: Two years

The purpose of this application is to test the applicability of sonar for use in monitoring manatee movements and behavior.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned PRT #685009. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Service.

Documents submitted in connection with the above application are available for review during normal business hours in room 601, 1000 N. Glebe Road, Arlington, VA.

Dated: November 14, 1984.

R.K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 84–30321 Filed 11–19–84; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application for Permit; University of California, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangerred Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT# 685333

Applicant: Brian James Walton, The Peregrine Fund, Univ. of CA, Santa Cruz, CA

The applicant requests a permit to take peregrine falcon (*Falco peregrinus*) eggs fro nests in CA, OR, WA, NV, and AZ form hatching. These young and young from a captive-breeding program, will be released to the wild for enhancement of survival.

PRT# 684673

Applicant: University of Michigan, Museum of Zoology, Ann Arbor, MI

The applicant requests a permit to import 5000-year-old leopard (*Panthera pardus*) bones and skulls salvaged from Egypt for purposes of scientific research.

PRT# 685142

Applicant: Bramble Park Zoo, Watertown, SD

The applicant requests a permit to purchase in interstate commerce one captive born male nene goose (*Branta sandvicensis*) from Mosquito Creek Game Farm, WAI, for enhancement of propagation.

PRT# 685757

Applicant: Massachusetts Div. of Fisheries & Wildlife, Boston, MA

The applicant requests a permit to take up to 20 hatchling red-bellied turtles (*Pseudemys rubriventris bangsi*) annually in Massachusetts for holding over the winter and subsequent release in the spring for enhancement of survival.

PRT# 677112

Applicant: Patuxent Wildlife Research Center, Laurel, MD

The applicant requests amendement of their permit for bald eagle (*Haliaeetus leucocephalus*) research to increase the number of captive-produced eggs or young that may be placed in wild nests for 20 to 40 per year.

PRT# 676811

Applicant: USFWS, Regional Director, Rag. 2, Albuquerque, NM

The applicant requests amendment of their permit to conduct activities outlined in the Service's program advice or in approved recovry plans for listed animals. They request that the permit include listed plants.

Document and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT/APP number when submitting comments.

November 14, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-30320 Filed 11-19-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Order Providing for Opening of Lands; Nevada

Correction

In FR Doc. 84-28889 appearing on page 44154 in the issue of Friday, November 2, 1984, make the following correction:

In the second column, twelfth line from the bottom of the page. "E½E½W ½;" should have read "E½, E½W½;".

BILLING CODE 1505-01-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 10, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 5, 1984.

Carol D. Shull,

Chief of Registration, National Register.

INDIANA

Brown County

Stone Head, *Hendricks, Thomas A., House and Stone Head Road Marker*, IN 135 and Bellsville Rd.

Clark County

Charlestown, *Downs, Thomas, House*, 1045 Main St.

Laporte County

LaPorte, *Morrison, Francis H., House*, 1217 Michigan Ave.

Lake County

Lowell vicinity, *Buckley Homestead*, 3606 Belshaw Rd.

Madison County

Anderson, *West Central Historic District*, Roughly bounded by Brown-Delaware, 10th, John, and 13th Sts.

Porter County

Valparaiso, *Loring, Dr. David J., Residence and Clinic*, 102 Washington St.

KENTUCKY

Jefferson County

Louisville, *Oxmoor (Boundary Decrease)*, 7500 Shelbyville Rd.

PUERTO RICO

Ponce County

Coamo, *Church San Blas de Illescas of Coamo (Historic Churches of Puerto Rico TR)*, Marrio Braschi St.

Aguadilla County

Hatillo, *Church Nuestra Senora del Carmen of Hatillo (Historic Churches of Puerto Rico TR)*, Luis M. Lacomba St.

Arecibo County

Utuado, *Church San Miguel Arcangel of Utuado (Historic Churches of Puerto Rico TR)*, Dr. Barbosa St.

Guayama County

Aibonito, *Church San Jose of Aibonito (Historic Churches of Puerto Rico TR)*, Emeterio Betances St. Cayey, *Church Nuestra Senora de la Asuncion of Cayey (Historic Churches of Puerto Rico TR)*, Munoz Rivera St.

Humacao County

Naguabo, *Church Nuestra Senora del Rosario of Naguabo (Historic Churches of Puerto Rico TR)*, Town Plaza

Mayaguez County

Guayanilla, *Church Immaculada Concepcion of Guayanilla (Historic Churches of Puerto Rico TR)*, Concepcion St.

Sabana Grande, *Church of San Isidro Labrador and Santa Maria de la Cabeza of Sabana Grande (Historic Churches of Puerto Rico TR)*, Angel G. Martinez St.

San German, *Church San German Auxerre of San German (Historic Churches of Puerto Rico TR)*, De la Cruz St.

Ponce County

Juana Diaz, *Church San Juan Bautistay San Ramon Nonato of Juana Diaz (Historic Churches of Puerto Rico TR)*, Town Plaza

Ponce, *Cathedral Nuestra Senora de Guadalupe of Ponce (Historic Churches of Puerto Rico TR)*, Town Plaza

SOUTH CAROLINA

Fairfield County

Winnsoboro vicinity, *Lemmon, Bob, House (Fairfield County MRA)*, Off SC 213

VIRGINA

Danville (Independent City)

Danville, *Hotel Danville (Municipal Building and City Market)*, 600 Main St.

Henrico County

Glen Allen vicinity, *Walkerton*, Mountain Rd.

WISCONSIN

Clark County

Neillsville, *Grand Avenue Bridge*, Grand Ave.

Crawford County

Prairie du Chien, *Folsom, W. H. C., House*, 109 Blackhawk Ave.

Dane County

McFarland, *Lewis Mound Group (47–Da–74)*, Burma Rd.

Jefferson County

Jefferson, *Jefferson Fire Station*, 146 E. Milwaukee St.
Watertown, *Beals and Torrey Shoe Co. Building*, 100 W. Milwaukee St.

Milwaukee County

Milwaukee, *Oneida Street Station*, 108 W. Wells and 816 N. Edison Sts.

Walworth County

Whitewater, *Halverson Log Cabin*, University of Wisconsin-Whitewater Campus

Waukesha County

Oconomowoc, *National Guard Armory 127th Regiment Infantry Company G*, 103 E. Jefferson and Main Sts.

Winnebago County

Menasha, *Upper Main Street Historic District*, 163—240 Main, 3 Mill, 56 Racine, and 408 Water Sts.
Oshkosh, *Oshkosh State Normal School Historic District*, Buildings at 800, 842, and 912 Algoma Blvd., and 845 Elmwood Ave.
Oshkosh, *Pollack, William E., Residence*, 765 Algoma Blvd.
Oshkosh, *Wall, Thomas R., Residence*, 751 Algoma Blvd.

[FR Doc. 84–30239 Filed 11–19–84; 8:45 am]
BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development and the Board for International Food and Agricultural Development; Meetings

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the eleventh meeting of the Joint Committee on Agricultural Research and Development (JCARD) on December 4–5, 1984 and the sixty-seventh meeting of the Board for International Food and Agricultural Development (BIFAD) on December 5–6, 1984.

JCARD Meeting

The purposes of the JCARD meeting are to: Discuss issues relating to the International Agricultural Research Centers (IARCs), and the Stock Assessment Collaborative Research Support Program (CRSPs); take action on Strengthening Grant evaluations, hear a report providing obserations by chief reviewers of the Strengthening Grant Program; and consider the JCARD program of work for 1985.

On December 4, the JCARD Executive Committee will meet from 9:00 a.m. to 12:00 moon in Room 5951 New State Department Building, 22nd and C Streets, N.W., Washington, D.C.; and the full JCARD will meet in that room from 1:00 p.m. to 5:00 p.m. On December 5, the full JCARD will meet from 9:00 a.m. to 12:00 noon in Room 1207, New State Department Building, 22nd and C Streets, N.W. Washington, D.C.

BIFAD Meeting

The BIFAD meeting will take place in two sessions. The purpose of the first session, on December 5, is to serve as a forum for the exchange of ideas and experiences between AID and outside experts on plans and prospects for agricultural research in Africa. The program will include presentations as follows: Agricultural research in Africa as a part of a global system (Vernon Ruttan, University of Minnesota); prospects for increasing food production in Africa and the role of science and technology and policy reform (John Mellor and/or Christopher Delgado, International Food Policy Research Institute—IFPRI); and a strategy for agricultural research in Africa (AID Africa Bureau).

The purposes of the second session, on December 6, will be to consider action on guidelines for AID-university Memoranda of Understanding; review activities of the Joint Committee on Agricultural Research and Development (JCARD); and to hear trip reports on the visit of university deans to India; the evaluation of farming systems project in Swaziland; the Memorandum of Understanding between AID and Brazilian Agricultural Research Organization (EMBRAPA); and the meeting of the AID Agricultural Officers in Latin America and the Caribbean.

The first session (the forum) will be held on Wednesday, December 5, from 1:30 p.m. to 5:00 p.m. in Room 451 of the Joseph Henry Building, 2122 Pennsylvania Avenue, N.W., Washington, D.C. The second session, on Thursday, December 6, will begin at 9:00 a.m. and adjourn at 12:00 noon, and will be held in Room 1107, New State Department Building, 22nd and C Streets, N.W., Washington, D.C.

All of the meetings are open to the public. Any interested person may attend, may file written statements with the Committee and Board before or after the meetings, or may present oral statements in accordance with procedures established by the Committee and Board, and to the extent the time available for the meeting permit. For those meetings held in the State Department, an escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the rooms.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative for the JCARD meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Dr. Erven J. Long, Coordinator, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at the BIFAD meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523 or telephone him at (703) 235–8929.

Dated: November 14, 1984.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 84–30438 Filed 11–19–84; 8:45 am]
BILLING CODE 6116–01–M

Housing Guaranty Program; Investment Opportunity; Zimbabwe

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan to Zimbabwe (Borrower) as part of A.I.D.'s overall development assistance program. The proceeds of this loan will be used to finance shelter projects for low income families residing in Zimbabwe.

A prior notice for this borrowing was published seeking expressions of interest. The Borrower is now ready to receive bids for the loan. The name and address of the Borrower's representative, the amount of the loan and project number are indicated below.

Zimbabwe

Project: 613–HG–001B—$25,000,000
Ministry of Finance, Harare, Zimbabwe, Telex: 2141 ZW

Attention: Mr. Arthur Charamba, Acting Deputy Secretary.

Copies of all bids should also be sent to:

(1) USAID/Harare—Telex No. 4428 ZW Harare, Zimbabwe

(2) PRE/H, A.I.D. Washington, D.C. 20523 Telex No. 892703

By this notice of investment opportunity, the Borrower is soliciting loan proposals from any interested investment bankers or lenders. Such proposals should be received by the Borrower not later than 8:00 a.m. Zimbabwe time, Thursday, November 29, 1984. The bids should provide for a single $25 million disbursement in January 1985. The loan should allow a ten year grace period and have a 25–30 year maturity period. Fixed and/or variable interest rates may be proposed. Prepayment options should also be specified.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrowers and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: November 15, 1984.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 84–30493 Filed 11–19–84; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–19 (Sub-94X)]

Rail Carriers; Baltimore and Ohio Railroad Co.; Abandonment; in Taylor County, WV; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*, as modified by *Exemption of Out of Service Rail Lines*, 1 I.C.C. 2d 55, decided April 16, 1984. B&O intends to abandon its line of railroad known as the Sand Lick Branch, which extends between Stations 0+00 and 118+18, a distance of approximately 2.24 miles in Taylor County, WV.

B&O has certified that: (1) No local traffic has moved over the line for at least 2 years, (2) overhead traffic is not handled on the line, and (3) no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of a user, regarding cessation of service over the line, either is pending with the Commission, or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in West Virginia has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the discontinuance of service will be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on December 20, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 30, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 10, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 9, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–30431 Filed 11–19–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–19 (Sub-96X)]

Rail Carriers; Baltimore and Ohio Railroad Co.; Discontinuance of Trackage Rights; in Sangamon County, IL; Exemption

The Baltimore and Ohio Railroad Company (B&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights*. The discontinuance of trackage rights is over that portion of Illinois Central Gulf Railroad Company's (ICG) line at or near Springfield, IL between B&O Station 9545+70 (milepost 180.76) and B&O Station 9573+53 (milepost 181.29), a distance of approximately 0.53 miles in Sangamon, IL.

B&O has certified: (1) That no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption willl be effective on December 20, 1984 (unless stayed pending reconsideration). Petition to stay the effective date of the exemption must be filed by November 30, 1984, and

petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 10, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Rene J. Gunning, 100 North Charles Street, Suite 2204, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 13, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-30433 Filed 11-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-64X)]

Rail Carriers; Chesapeake and Ohio Railway Co.; Abandonment Exemption; in Logan County, WV; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments,* as modified by *Exemption of Out of Service Rail Lines,* 1 I.C.C. 2d 55, decided April 16, 1984. C&O will abandon that portion of its Whitman Creek Subdivision between stations 39+93 and 131+00, a distance of approximately 1.90 miles in Logan County, WV.

C&O has certified that: (1) No local traffic has moved over the line for at least 2 years, (2) overhead traffic is not handled on the line, and (3) no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of a user, regarding cessation of service over the line, either is pending with the Commission, or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in West Virginia has been notified in writing at least 10 days prior to the filing of this notice. See *Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on December 20, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 30, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 10, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 8, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-30428 Filed 11-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-65X)]

Rail Carriers; Chesapeake and Ohio Railway Co.; Abandonment; Seneca County, OH, Exemption

The Chesapeake and Ohio Part Railway Company (C&O) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* C&O's abandonment involves two portions of its line of railroad at or near Fostoria, OH, between Stations 1784+05 and 179+14, a distance of approximately 0.27 miles and between Stations 1876+67 and 1895+65, a distance of approximately 0.36 miles, all in Seneca County, OH.

C&O has certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal complaint, filed by a user of rail service on the line, or by a state or local governmental entity acting on behalf of such user, regarding cessation of service over the line, either is pending with the Commission or has been decided in favor of a complainant within the 2-year period preceding this notice. The Public Service Commission (or equivalent agency) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment will be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 366 I.C.C. 91 (1979).

The exemption will be effective on December 20, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 29, 1984; and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 10, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission must be sent to C&O's representatives:

Rene J. Gunning, 100 North Charles Street, Suite 2204, Baltimore, MD 21201

Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 9, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-30429 Filed 11-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30519]

Rail Carriers; Marion County Railway Co.; Exemption; Common Control; Exemption

On June 29, 1984, Marion County Railway Company (MCRC) filed a notice of exemption under 49 CFR 1180.2(d)(2) in connection with its proposed lease and operation of a line of track between Milepost AC-362.0 and Milepost AC-332.3, a distance of 6.3 miles, located in and owned by Marion County, SC (County). In Docket No. AB-55 (Sub-No. 86), *Seaboard System Railroad, Inc.—Abandonment—Marion County* (not printed), served May 16, 1984, the County was authorized to acquire the 6.3-mile line and the abandonment application was dismissed. Subsequently, at the request of the County, and before the purchase was

consummated, the May 16th decision was modified by decision served October 12, 1984. The modification notes that MCRC will operate the line on behalf of the County and thereby insures that MCRC's operations of the line will not result in a transfer of the service obligation in violation of 49 U.S.C. 10905(f)(4).

Willard R. Formyduval, president of MCRC, also controls and operates 3 Class III railroads: Warrenton Railroad Company (Warrenton), Aberdeen and Briar Patch Railway Company (Aberdeen), and Hartwell Railway Company (Hartwell). Mr. Formyduval owns 77 percent of the stock of Warrenton, is president and sole shareholder of Aberdeen, and is president and owner of 12.5 percent of the outstanding shares in Hartwell. Aberdeen owns an 80 percent interest in MCRC, and Mr. Formyduval will own or control a 90 percent interest in MCRC.

The acquisition of control of MCRC by Arberdeen and, consequently, by Mr. Formyduval comes within the class of transactions exempted from prior approval under 49 CFR 1180.2(d)(2). The lines of MCRC, Aberdeen, Warrenton, and Hartwell do not connect with each other, and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction involves no Class I carriers.

As a condition to the use of this exemption, any employee affected by the acquisition of control shall be protected pursuant to *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: November 9, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-30432 Filed 11-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-118)]

Rail Carriers; Seaboard System Railroad, Inc.,—Abandonment—in Daviess and McLean Counties, KY; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc., to abandon its 20.9-mile rail line between Livermore (milepost D-193.7) and Owensboro (milepost D-214.6) in Daviess and McLean Counties, KY. The abandonment certificate will become effective 30 days after the publication of this Notice unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedure regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 84-30430 Filed 11-19-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-28]

Coleman Preston McCown, D.D.S.; Denial of Application

On September 30, 1982, the then Acting Administrator of the Drug Enforcement Administration (DEA) issued to Coleman Preston McCown, D.D.S. (Respondent), of Landover, Maryland, an Order the Show Cause proposing to deny the Respondent's pending application for registration pursuant to 21 U.S.C. 823(f). The statutory predicate for the proposed action was Respondent's controlled substance-related felony conviction on March 26, 1981, in the United States District Court for the District of Maryland. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

Respondent was incarcerated at the time the Order to Show Cause was issued and therefore could not attend or participate in a hearing. Accordingly, Administrative Law Judge Francis L. Young entered a consent order on December 15, 1982, in which counsel for Respondent agreed to inform counsel for the Government when Dr. McCown would be free and able to be present at a hearing. Subsequently, the hearing in this proceeding was held on April 17, 1984, in Washington, D.C., Judge Francis L. Young presiding. At the hearing a second application from Respondent, in addition to the one specified in the Order the Show Cause, was put into evidence. It was dated May 20, 1982. These proceedings apply to all of Respondent's pending applications for DEA registration.

On June 21, 1984, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. No exceptions were filed and on July 17, 1984, Judge Young transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that on December 3, 1979, Respondent was present at a Washington, D.C. restaurant when an officer of the Drug Enforcement Task Force, working undercover, purchased a quantity of cocaine from an acquaintance of Respondent. Respondent was aware of what was occurring and let it be known that he too was a dealer in cocaine. During the meeting, Respondent boasted about his methods used to evade police discovery, including display of a police fraternal organization sticker on his Mercedes-Benz.

Subsequently, on June 14, 1980, a DEA Special Agent was taken to Respondent's apartment by a cooperating individual. Respondent sold the Agent 3.5 grams of cocaine for $280. During this visit, the Agent was introduced to Respondent's paramour. About two weeks later, the Agent returned to Respondent's apartment at the direction of Respondent's paramour. On this occasion the Agent purchased 3.5 grams of cocaine from the woman for $250. She stated that she was making this sale on instructions given her by Respondent.

On June 30, 1980, the Agent again spoke with Respondent by telephone while Respondent was at his dental office. They agreed to meet at a shopping center so that the Agent might purchase some cocaine from Respondent. When they met, the Agent told Respondent that he was interested in purchasing an ounce of cocaine. Respondent left the Agent's automobile in which he and the Agent were sitting, went to his own car, retrieved a leather bag, returned to the Agent's car and pulled out two plastic bags which contained cocaine. The Agent then purchased an ounce of cocaine from the Respondent for $2,000. Respondent was carrying approximately 12 ounces of cocaine with him in the leather bag. On this occasion and in a subsequent conversation, Respondent and the Agent discussed the availability of heroin. Respondent assured the Agent that he

would be able to supply some heroin to him.

Pursuant to a search warrant, officers entered and searched Respondent's apartment on September 18, 1980. They sized approximately one pound of cocaine there valued at about $30,000 wholesale. The officers also seized a quantity of cocaine paraphernalia from the apartment including some lidocaine (a dilutant of cocaine), a number of "quills" or straws cut on an angle to facilitate the snorting of cocaine, strainers, a finely instrumented Mettler scale, razor blades, measuring spoons, a quantity of glassine envelopes in which the cocaine would be packaged for sale, and other items.

While the search warrant was being executed at Respondent's apartment, Respondent was arrested in a parking lot outside his dental office as he prepared to enter his car. At that time he had with him five clear plastic bags containing a total of 142 grams of 43% pure cocaine in a large bag and an additional clear plastic bag containing 31 grams of 29% pure cocaine in his pocket. Respondent had left his dental office immediately before he was arrested.

Consequently, a grand jury of the United States District Court for the District of Maryland handed up a five-count indictment charging Respondent and his girl friend with conspiring to unlawfully distribute cocaine. Respondent was also charged with three counts of distribution and possession. On March 26, 1981, Respondent pled guilty to one count of aiding and abetting the distribution of cocaine, a Schedule II narcotic controlled substance. This is a felony conviction relating to controlled substances. Therefore, there is a lawful basis for the denial of Respondent's pending applications for registration under 21 U.S.C. 824(a)(2). *Serling Drug Company*, Docket No. 74–12, 40 FR 11918 (1975); *Raphael C. Cilento, M.D.*, Docket No. 79–2, 44 FR 30466 (1979); and *Thomas W. Moore, Jr., M.D.*, Docket No. 79–13, 45 FR 40743 (1980).

The Administrative Law Judge found that Dr. McCown is among a small group of general practice dentists in the Washington, D.C. area qualified to use general anesthesia in general practice dentistry, as distinguished from dental surgery. There are dental patients who, because of fear, can have general dental work done only when under general anesthesia. Dr. McCown's continued practice of this specialty in dentistry depends on his ability to administer general anesthesia. To do so he must have a DEA registration.

The Administrative Law Judge further found that Respondent's dental practice license was revoked by the Maryland authorities on March 7, 1984. The revocation will be stayed, however, effective upon his successfully passing a clinical practice examination. The revocation order, to which Respondent consented, further provides that upon the successful passing of the examination, Respondent will be placed on probation subject to certain conditions. He must keep duplicate copies of all controlled dangerous substances prescriptions he writes and arrange for supervision by another dentist who will submit quarterly reports on Respondent's professional ability and on his compliance with the order. Also, Respondent must undergo psychotherapy with a therapist who will submit quarterly reports. Respondent must complete a remedial training program and meet other requirements. There are no provisions of the Maryland State Board of Dental Examiner's order having to do specifically with the administration or dispensing, as opposed to prescribing of controlled substances.

Respondent stressed the fact that the Maryland Board of Dental Examiners has seen fit to permit him to resume his practice of dentistry as long as he meets certain conditions. Judge Young noted that the present status of Respondent's ability to practice is uncertain on this record. The Board's consent order provides that Respondent's license to practice "is hereby revoked." It then goes on to provide that the "foregoing revocation, *shall be stayed upon* Respondent's successfully *passing* [an] examination. (*Italic added.*) As of the date of the hearing in the instant proceeding, Respondent had not yet taken that examination. So, as of that date, Respondent was not licensed to practice dentistry.

The consent order also provided that "*should* the Board's revocation order be stayed, the Respondent shall be placed on probation subject to [a number of] conditions." (*Italic added.*) The conditions indicate that the Maryland Board of Dental Examiners is willing to permit Respondent to resume practice only under close professional supervision. The Administrative Law Judge further stated that there was nothing in the consent order to indicate that the Board contemplated Respondent's return to the same specialized type of dental practice, calling for administering anesthesia to virtually every patient coming to him for treatment.

The Administrative Law Judge recommended to the Administrator of DEA that Respondent's applications be denied. The Administrator adopts the recommended ruling, findings of fact and conclusions of law of the Administrative Law Judge in their entirety.

The Administrator of the Drug Enforcement Administration is charged with deciding whether, or under what circumstances, Respondent can be entrusted with the handling of heavily abused controlled substances as a DEA registrant. At this time the Administrator believes that Rspondent, a major drug dealer, is a danger to the public health and safety and has not earned that trust. Respondent's criminal activity, although not related to his dental practice, clearly shows a disregard for the law and an indifference to his responsibilities as a registrant and a health professional. The Drug Enforcement Administration has consistently held that conviction of a controlled substance-related felony, even though unrelated to a registrant's professional practice, requires the same sanctions as one which is so related. See, *Tilman J. Bently, D.O.*, Docket No. 82–22, 49 FR 35049 (1984); *Dennis Howard Harris, M.D.*, Docket No. 84–19, 49 FR 39930 (1984); *Raymond H. Wood, D.D.S.*, Docket No. 82–32, 48 FR 48727 (1983); and *Aaron A. Moss, D.D.S.*, Docket No. 80–2, 45 FR 72850 (1980).

The Administrator further concludes that there has been no showing that Respondent needs a DEA registration to practice general dentistry. It is only to pursue his unique specialty that Respondent seeks to be registered. Denial of his application will not result in Respondent's being unable to practice his profession at all. Respondent is free to reapply in the future and his application will be evaluated in light of the then existing circumstances.

Accordingly, having concluded that there is a lawful basis for the denial of Respondent's applications for registration and having further concluded that under the facts and circumstances presented in this case, the applications should be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the applications of Coleman Preston McCown, D.D.S., for registration under the Controlled Substances Act, be, and they hereby are, denied, effective December 20, 1984.

Date: November 9, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-30408 Filed 11-19-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-6]

Cuca Pharmacy, Inc.; Miami, FL; Hearing

Notice is hereby given that on March 29, 1984, the Drug Enforcement Administration, Department of Justice, issued to Cuca Pharmacy, Inc., an Order To Show Cause and Immediate Suspension Of Registration affording Respondent the opportunity to show cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AC1760912.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, November 27, 1984, in Courtroom I, U.S. District Court, Old Courthouse Building, 300 N.E. 1st Avenue, Miami, Florida.

Dated: November 9, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-30409 Filed 11-19-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-44]

Stephen Granet Rosen, D.D.S., Miami Beach, FL.; Hearing

Notice is hereby given that on September 28, 1984, the Drug Enforcement Administration, Department of Justice, issued to Stephen Granet Rosen, D.D.S., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AR0153065, as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Wednesday, November 28, 1984, in Courtroom I, U.S. District Court, Old Courthouse Building, 300 N.E. 1st Avenue, Miami, Florida.

Dated: November 9, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-30410 Filed 11-19-84; 8:45 am]

BILLING CODE 4410-09-M

Application; Importation of Controlled Substances; E.I. du Pont de Nemours and Co.

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 29, 1984, E. I. du Pont de Nemours and Company, Chambers Works, Deepwater, New Jersey 08023, made application to the Drug Enforcement Administration to be registered as an importer of Thebaine (9333), a basic class controlled substance in Schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than December 20, 1984.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: November 9, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-30411 Filed 11-19-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Reappointment of Members to the Performance Review Board

This Notice amends Department of Labor Notice published on December 9, 1983 (48 FR 55199), listing Department of Labor members of the Performance Review Board of the Senior Executive Service.

The following executives are hereby reappointed to new 3-year terms, effective November 18, 1984:

Thomas C. Komarek
Janet L. Norwood

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Acting Director of Personnel Management, Room C5526, Department of Labor, Frances Perkins Building, Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of November 1984.

Ford B. Ford,

Under Secretary of Labor.

[FR Doc. 84-30458 Filed 11-19-84; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Sjoblom Shake and Shingle Mall, et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period November 5, 1984–November 9, 1984.

In order for a affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate

subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sale or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,418; Sjoblom Shake and Shingle Mill, Winlock, WA

Affirmative Determinations

TA-W-15,355; E.I. duPont De Nemours & Co., Inc., Chemicals and Pigments Department, Newport, DE

A certification was issued covering all workers engaged in employment related to the production of copper phthalocyanine (CPC) blue pigment separated on or after January 1, 1984 and before August 15, 1984.

TA-W-15,432; Towmotor Corp., Mentor, OH

A certification was issued covering all workers separated on or after January 1, 1984.

TA-W-15,417; Purolator Products, Inc., Rahway, NJ

A certification was issued covering all workers separated on or after July 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period November 5, 1984–November 9, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 13, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-30456 Filed 11-19-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Buffalo Color Corp. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 30, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 30, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 13th day of November 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Buffalo Color Corp. (USWA)	Buffalo, NY	11/6/84	10/30/84	TA-W-15,550	Paste, powder, indigo.
Caryco Mining, Ltd. (workers)	Huntington, WV	11/6/84	10/31/84	TA-W-15,551	Coal, metallurgical, mining.
Century Brass Products, Inc. (UAW)	Waterbury, CT	11/5/84	11/1/84	TA-W-15,552	Wire rods and strip.
Century Brass Products, Inc. (UAW)	New Milford, CT	11/5/84	11/1/84	TA-W-15,553	Brass tubes.
Chippewa Shoe Co. (company)	Chippewa Falls, WI	11/5/84	10/31/84	TA-W-15,554	Boots—leather men's work and sport.
Craddock-Terry Shoe Corp. (ACTWU)	Dillwyn, VA	11/2/84	10/29/84	TA-W-15,555	Footwear, men's.
Craddock-Terry Shoe Corp. (ACTWU)	Blackstone, VA	11/2/84	10/29/84	TA-W-15,556	Footwear, women's.
Equitable Fashions (Int'l leather Goods)	New Brunswick, NJ	10/26/84	10/9/84	TA-W-15,557	Handbags, women's.
Euclid, Inc., Division of Clark Michigan Co. (UAW)	Solon, OH	11/5/84	10/31/84	TA-W-15,558	Parts and warehouse.
Euclid, Inc., Division of Clark Michigan Co. (UAW)	Euclid, OH	11/5/84	10/31/84	TA-W-15,559	Trucks, construction, road-off.
Facet Enterprises, Inc., Filter Products Division (workers)	Madison Heights, MI	10/29/84	10/22/84	TA-W-15,560	Facet filters.
Mercury Sportswear Co., Inc. (ILGWU)	New York, NY	11/5/84	10/31/84	TA-W-15,561	Pants, skirts, jackets.
Texaco, Inc. (OPEIU)	Port Arthur, TX	10/25/84	10/19/84	TA-W-15,562	Petroleum refining.

[FR Doc. 84-30457 Filed 11-19-84; 8:45 am]

BILLING CODE 4510-30-M

CHAPTER VI—OFFICE OF POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION

Design Arts Advisory Panel (Fellowships Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 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 December 5-6, 1984, from 9:00 a.m. to 5:30 p.m. in Room Mo-7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussions of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(b) of

section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment of the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 13, 1984.

[FR Doc. 84–30324 Filed 11–19–84; 8:45 am]

BILLING CODE 7537–01–M

Inter-Arts Advisory Panel (Interdisciplinary Arts Project Section); 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 Inter-Arts Advisory Panel (Interdisciplinary Arts Project Section) to the National Council on the Arts will be held on December 3–4, 1984, from 9:00 a.m. to 8:00 p.m., December 5, 1984, from 9:00 a.m. to 6:30 p.m., December 6, 1984, from 9:00 a.m. to 7:30 p.m., and December 7, 1984, from 9:00 a.m. to 6:00 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on December 7, 1984, from 12:30 to 3:30 p.m., to discuss policy.

The remaining sessions of this meeting on December 3–4, 1984, from 9:00 a.m. to 8:00 p.m., December 5, 1984, from 9:00 a.m. to 6:30 p.m., December 6, from 9:00 a.m. to 7:30 p.m., December 7, 1984, from 9:00 a.m. to 12:00 noon, and December 7, from 3:30 to 6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John N. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, of Council & Panel Operations, National Endowment for the Arts.

November 13, 1984.

[FR Doc. 84–30323 Filed 11–19–84; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel Meetings

AGENCY: National Endownment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506:

1. Date: December 3, 1984.
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications submitted to the Research Translation Program: Slavic Panel, Division of Research Programs, for projects beginning after April 1, 1985.
2. Date: December 10, 1984.
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications submitted to the Research Translation Program: Romance Panel, Division of Research Programs, for projects beginning after April 1, 1985.
3. Date: December 7, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Summer Stipends applications in American History III, submitted to the Division of Fellowships and Seminars beginning after May 1, 1985.
4. Date: December 3, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Summer Stipends applications in American History I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
5. Date: December 4, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Summer Stipends applications in Early Modern and Modern European History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
6. Date: December 4, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Summer Stipends applications in Early European History; Classics; Medieval and Renaissance Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
7. Date: December 5, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Summer Stipends applications in American History II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
8. Date: December 6, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Summer Stipends applications in Philosophy I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
9. Date: December 7, 1984.
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Summer Stipends applications in Anthropology, Folklore, Archaeology, and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
10. Date: December 10, 1984.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review Summer Stipends applications in Sociology, Psychology, and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
11. Date: December 10, 1984.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review Summer Stipends applications in Foreign Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.
12. Date: December 11, 1984.
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review Summer Stipends applications in Latin American, Asian, African, and Near Eastern History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

13. Date: December 12, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Romance Languages and Literature; submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

14. Date: December 13, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends Applications in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

15. Date: December 14, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Philosophy II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

16. Date: December 14, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends applications in Communications and Drama, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

17 Date: December 17, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Music and Dance, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

18. Date: December 17, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends applications in Modern American and British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

19. Date: December 18, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

20. Date: December 19, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends applications in Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

21. Date: December 19, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Political Science and Economics, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

22. Date: December 20, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

23. Date: December 20, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Summer Stipends applications in Constitutional (Bicentennial); Law and Jurisprudence submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

24. Date: December 12, 1984
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Summer Stipends applications in Comparative Literature; Literary Theory and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1985.

25. Date: December 3–4, 1984
Time: 8:30 a.m. to 5:00 p.m.
Room: 430
Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after April 1, 1985.

26. Date: December 7, 1984
Time: 9:00 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for the Humanities Programs for Nontraditional Learners, Division of Education Programs, for projects beginning after February 1985.

The proposed meetings 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 discsussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider informaton that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings 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 about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; or call (202) 786–0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 84–30406 Filed 11–19–84; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 395–9421.

OMB Desk Officer: Carlos Tellez, (202) 395–7340.

Title: Survey of Graduate Science and Egnineering Students and Postdoctorates.

Affected Public: Universities and Colleges.

Number of Responses: 8,400; total of 13,300 burden hours.

Abstract: The survey is the only source of national statistics on graduate student and postdoctorate support and characteristics of faculty employed in graduate science/engineering (S/E) programs. Data are used by Federal agencies, state Education Boards, professional societies, and institutions of higher education in monitoring S/E educational progress and in planning to meet future S/E personnel needs.

Dated: November 15, 1984.

Herman G. Fleming,
NSF Reports Clearance Officer.

[FR Doc. 84–30445 Filed 11–19–84; 8:45 am]
BILLING CODE 7555–01–M

Advisory Council Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: NSF Advisory Council.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Date: Thursday, December 6, 1984.
Time: 9:00 a.m. to 3:00 p.m.
Type of Meeting: Open.
Contact Person: Mrs. Susan Kemnitzer, Executive Secretary, NSF Advisory Council, National Secience Foundation, Room 527,

1800 G Street, NW., Washington, D.C. 20550. Telephone: 202/357-9730.

Purpose of Advisory Council: The purpose of the NSF Advisory Council is to provide advise and council to the NSF Director and principal members of his staff on matters of Foundationwide concern. It represents a cross section of the scientific disciplines and program areas that are supported by the Foundation.

Summary Minutes: May be obtained from the contact person at above stated address.

Agenda: To assess the public's perception of science and technology generally and NSF specifically.

Dated: November 15, 1984.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 84-30444 Filed 11-19-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Combined Subcommittees on San Onofre Nuclear Generating Station Unit 1 and Systematic Evaluation Program; Meeting Changes

The ACRS Subcommittee meeting on San Onofre Nuclear Generating Station Unit 1 previously scheduled for Monday, November 26, 1984 has been changed to a combined meeting, *San Onofre Nuclear Generating Station Unit 1 and Systematic Evaluation Program*, for Tuesday, November 27, 1984, 8:30 a.m. until the conclusion of business, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The Subcommittee will discuss the NRC Staff's technical basis for restart of San Onofre Nuclear Generating Station Unit 1.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, November 5, 1984 (49 FR 44253).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.s.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 15, 1984.

Thomas G. McCreless,

Assistant Executive Director for Technical Activities.

[FR Doc. 84-30441 Filed 11-19-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, Decembers 6, 1984
Thursday, December 13, 1984
Thursday, December 20, 1984

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415, (202) 632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

November 9, 1984.

[FR Doc. 84-30221 Filed 11-19-84; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chpater 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Employer's Quarterly or Annual Report of Contributions Under the RUIA.

(2) Form(s) submitted: DC-1.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: Recordkeeping, Quarterly, Annually.

(5) Respondents: Business or other for profit.

(6) Annual responses: 2,387.

(7) Annual reporting hours: 835.

(8) Collection description: Railroad employers are required to make contributions to the RUI fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84–30418 Filed 11–19–84; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14235; 2 (812–5938)]

State Bank of Victoria and S.B. Victoria Funding Inc.; Exempting

November 14, 1984.

Notice is hereby given that State Bank of Victoria (the "Bank") 385 Bourke Street Melbourne, Victoria 3000 Australia, an Australian bank, and its wholly-owned subsidiary S.B. Victoria Funding Inc.("Funding,"and jointly with Bank, the "Applicants"), 1209 Orange Street, Wilmington, DE 19801, a Delaware corporation, filed an application on September 14, 1984, for an order of the Commission, purusant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicatons from all provisions of the Act in connection with their proposed issuance of commercial paper in the United States. All interested persons are referred to the application on file with the Commission for a statement of the presentations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

The Bank, the principal offices of which are located in Melbourne, is the third largest savings bank in Australia with assets of more than $6.5 billion, desposits of more than $5.8 billion, and reserve funds of more than $267 million. According to Applicants, the Bank is an autonomous body authorized to do business and regulated under the provisions of the State Bank Act of 1958 (the "State Bank Act"). Applicants state that the management of the Bank is vested in commissioners, who are appointed by the Governor of the State of Victoria (the "State"), acting on the advice of the State Cabinet. Applicants further state that the Bank's commissioners hold all the property of the Bank for and on account of the State government. Monies belonging or payable to the Bank are deemed to be public monies pursuant to the State Bank Act.

Applicants represent that the Bank's principal business is the receipt of deposits and making loans, including housing loans, personal loans to individuals, and loans to public authorities. Although counted among Australia's savings banks, the Bank, through a 1980 amendment to the State Banking Act, was authorized to provide full trading bank (*i. e.*, commercial bank) facilities, including custodial services, money transfers, travel services, insurance for properties mortgaged to the Bank, foreign exchange, import/export trade financing, and letters of credit. In addition, the Bank participates in merchant banking through its 25.8% shareholding in Tricontinental Holdings Limited, which in turn participates in all areas of merchant banking including money markets and commerical and international financial advisory services.

Applicants state that the Bank is authorized to carry on its business solely by and under the State Bank Act. Applicants assert that, under the State Bank Act, the Bank's commissioners establish rates of interest payable by or to the Bank and reserve requirements for deposits with the Bank. Applicants contend that, although the Bank is not required by law to observe any specified asset distribution or liquidity convention imposed on Australian banks by the Commonwealth Banking Act of 1959, as administered by the Reserve Bank of Australia ("the RBA"), the Bank has voluntarily agreed to comply with certain monetary regulations imposed by the RBA. Applicants further state that the State Banking Act requires the Bank to forward to the State Tresurer an annual audited statement of its accounts to be presented to the Governor and both houses of State Parliament.

Applicant propose to offer for sale in the United States unsecured short-term promissory notes of the type generally referred to as commerical paper (the "Notes"). According to Applicants, the Notes will be in bearer form, denominated in United States dollars, of prime quality, and issued in minimum denominations of at least $100,000. Applicants state that the Notes will have a maturity of nine months or less, exclusive of days of grace, and will neither be payable on demand nor provide for any extension, renewal, or automatic "roll-over" at the option of either the holder or the issuer.

Applicants represent the Notes will be effectively secured by the credit of the Bank and the guarantee of the State. It is anticipated that the Notes will be issued by Funding and secured by obligations of the Bank under a loan agreement with Funding (the "Loan Obligations") pursuant to which Funding shall lend to the Bank the proceeds derived from the sale of the Notes and the Bank shall agree to make payments to Funding on such Loan Obligations in amounts sufficient to pay the principal of and interests on the Notes. Alternately, Applicants state, the Notes may be issued as direct obligations of the Bank guaranteed by the State. It is represented that the Notes issued by Funding will rank *pari passu* among themselves, equally with all other unsecured, unsubordinated indebtedness of Funding, and superior to the rights of Funding's shareholder. It is further represented that the Bank's Loan Obligation will rank equally with all other unsecured, unsubordinated indebtedness of the Bank.

According to Applicants, the Notes will not be advertised or otherwise offered for sale to the general public, but, instead, will be issued and sold through one or more commercial paper dealers in the United States to investors in the United States who normally purchase commercial paper. Applicants will require the dealer(s) to provide each offeree of the Notes prior to purchase with a memorandum which briefly describes the business of Applicants, including the Bank's most recent publicly available fiscal year-end balance sheet and profit and loss statement, which shall have been audited in the manner customarily done by its auditors. Applicants contend that the memorandum will briefly describe the differences between the accounting principals applied in the preparation of its financial statements and "generally accepted accounting principals" used by banks in the United States. Applicants further contend that the memorandum and financial statements will be at least as comprehensive as those customarily used by United States issuers in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of the Applicants.

Applicants represent that the presently proposed and any future issuance of Notes or other debt securities by them in the United States shall have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicants' legal

counsel in the United States will certify that such a rating has been received. Applicants state, however, that no such rating need be obtained with respect to any issue if, in the opinion of Applicants' legal counsel in the United States, counsel having taken into account for the purposes thereof the doctrine of "integration" referred to in Rule 502 of Regulation D under the Securities Act of 1933 (the "1933 Act").

Applicants state that the terms of the Notes, including their negotiability, maturity, minimum denomination, manner of offering to investors, and use of proceeds will qualify them for the exemption from registration under Section 3(a)(3) of the 1933 Act. The Notes will be prime quality negotiable commercial paper of the type eligible for discount by Federal Reserve Banks and will arise out of, or the proceeds of which will be used for, current transactions. Applicants will not issue or sell any Notes, however, until they have received an opinion from their legal counsel in the United States to the effect that the offering of the Notes is entitled to the exemption. Applicants do not request Commission review or approval of such opinion.

Applicants will appoint a bank or trust company in the United States to act as their agent in issuing the Notes on their behalf. They will appoint either that financial institution or some other United States person which normally acts in such capacity to accept any process served in any action based on a Note and instituted by the holder of the Note in any state or federal court having jurisdiction in the matter. Applicants will expressly accept the jurisdiction of any state or federal court in the state of New York sitting in New York County in respect of any such action. The appointment of an authorized agent to accept service of process and the consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicants. Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering and sale of the Notes or otherwise in connection with the Notes.

Applicants may in the future offer and sell other debt securities in the United States. No future securities shall be offered or sold unless (a) the securities are registered under the 1933 Act, or (b) in the opinion of United States counsel for Applicants an exemption from registration under the 1933 Act is available with respect to the offer and sale, or (c) the staff of the Commission states that it would not recommend that the Commission take any action under the 1933 Act if such securities are not registered. Applicants undertake that any future offering of securities of the Bank or Funding in the United States will be made on the basis of disclosure documents which are appropriate and customary for the offering, whether made pursuant to a registration statement under the 1933 Act or an exemption therefrom (and in any event as comprehensive as those used in offerings of similar securities by issuers in the United States), and will be updated periodically to reflect material changes in the business or financial status of the Bank or Funding. In any future offering of securities of the Bank or Funding in the United States made through dealers or underwriters, Applicants will secure an undertaking from each dealer or underwriter to furnish such disclosure documents to each offeree of such securities, prior to any sale of the securities to such offeree.

Applicants also undertake, in connection with any future offering in the United States of their debt securities, to appoint a United States person as agent to accept any process served in any action based on any securities and instituted in any state or federal court having jurisdiction by the holder of the security. Applicants further undertake that they will expressly accept the jurisdiction of any state or federal court in the State of New York sitting in New York County in respect of any action. The appointment of an agent to accept service of process and the consent to jurisdiction will be irrevocable so long as the securities remain outstanding and until all amounts due and to become due in respect of the securities have been paid. Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the securities or otherwise in connection with the securities. Applicants agree that any Commission order is expressly conditioned on the Applicants' compliance with all undertakings set forth in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 10, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, it any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-30453 Filed 11-19-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., December 3, 1984, at the Lincoln Inn, in St. Johnsbury, Vermont, to discuss such businesses as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229-0538.

Dated: November 13, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-30440 Filed 11-19-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Los Angeles International Airport, FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Los Angeles International Airport (LAX) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. The FAA also announces formal receipt of the proposed LAX noise compatibility program submitted for review and

approval under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved by the Administrator on or before April 13, 1985.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the LAX noise exposure maps, and of the start of the formal review period for the associated noise compatibility program is October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Ellis A. Ohnstad, Airport Planning Officer, AWP-611, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, (213) 536-6250. Comments on the proposed noise compatibility program should also be submitted to that office.

SUPPLEMENTARY INFORMATION: This noise announces that the FAA has accepted noise exposure maps for Los Angeles International Airport effective October 15, 1984; and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 13, 1985. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150 promulgated pursuant to Title I of the Act, may also submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposed for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Los Angeles International Airport has submitted to the FAA on May 26, 1983, noise exposure maps, descriptions, and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at LAX from October 1980 to June 1984. It was requested that the FAA accept this material as a noise exposure map as described in Section 103 (a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

SUPPLEMENTARY INFORMATION: The FAA has completed its review of the noise exposure maps and related material submitted by Los Angeles International Airport. The FAA has accepted the noise exposure maps for Los Angeles International Airport effective October 15, 1984.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program, or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon the October 15, 1984, acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for LAX. Preliminary review of the submitted material indicated that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 13, 1984.

The proposed program includes recommended measures relating to flight procedures for noise control purposes which are exempt from the 180-day review procedures. The FAA's detailed evaluation of these measures will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate of foreign commerce, and be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land uses authorities, will be considered by the FAA to the extent practicable. Because the FAA may approve a proposed noise compatibility program in less than 180 days, no formal comment period has been established. Comments received subsequent to FAA approval or disapproval, even if received beyond the 180-day limit, will be acknowledged and considered in evaluating project applications to implement elements of the program. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters , 800 Independence Avenue, SW., Room 617, Washington, D.C.

Federal Aviation Administration, Western-Pacific Region, 15000 Aviation Boulevard, Room 6E25, Hawthorne, California

Los Angeles Department of Airports, One World Way, Fourth Floor, Los Angeles, California

Questions may be directed to the individual named above under the heading, "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Hawthorne, California, on October 23, 1984.

Alex Hammond,

Acting Director, Western-Pacific Region.

[FR Doc. 84-30326 Filed 11-19-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Announcement of Sealed Bid Auction for 103,783 Shares of Erie Lackawanna Inc. Common Stock

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury announces that it is receiving offers to purchase 103,783 shares of common stock of Erie Lackawanna Inc. ("EL") owned by the United States (the "Shares"). The shares represent approximately 12.3 percent of the outstanding common stock of EL. Offers to purchase the Shares must be made by sealed bid, under the procedures and subject to the terms and conditions set forth in an Invitation for Bids (the "Invitation"). Bids must be received by 3:00 p.m. (Washington, D.C. time) on December 10, 1984, in order to be considered.

The invitation may be obtained by mail or in person, beginning at 10:00 a.m. on November 19, 1984 at the office set forth below: Office of the Assistant General Counsel (Banking and Finance), United States Department of the Treasury, Room 2026, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220. Only one copy will be furnished to any individual or address.

FOR FURTHER INFORMATION CONTACT: Elen Seidman (202–566–2278) or Nina Mendelsohn (202–535–6726), Office of the General Counsel, Department of the Treasury, Room 2026, Main Treasury Building, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION: Full details concerning the sale are available only in the Invitation and all bids must be submitted in the form set forth in the invitation. The following, however, summarizes the major conditions of this sale.

(1) The Shares will be sold only as a block and only for cash.

(2) The Department of the Treasury reserves the right to reject all bids.

(3) All bidders will be required to submit information described in the Invitation concerning the bidder.

(4) All bidders will be required to submit a deposit of $20,000 in the form of a certified check, which will be returned to unsuccessful bidders and credited to the purchase price for the successful bidder.

(5) To be considered, bids must be received no later than 3:00 p.m. (Washington, D.C. time) on December 10, 1984 at Room 3321, Main Treasury Building, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220. Late bids will not be accepted.

(6) The purchaser of the Shares will be required to execute an investment intent letter stating that the Shares are purchased for investment and not with a view to distribution.

(7) The Shares will be legended with a notice that they may not be sold, transferred or hypothecated without compliance with the Securities Act of 1933.

(8) The successful bidder will be required to execute a stock purchase agreement in the form set forth in the invitation.

Dated: November 19, 1984.

Thomas J. Healey,

Assistant Secretary, (Domestic Finance).

[FR Doc. 84-30631 Filed 11-19-84; 10:24 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1984 Rev., Supp. No. 3]

Compass Insurance Co.; Surety Companies Acceptable on Federal Bonds Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Compass Insurance Company, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective today. The company was last listed as an acceptable surety on Federal bonds at 49 FR 27251, July 2, 1984.

With respect to any bonds currently in force with Compass Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, (formerly Bureau of Government Financial Operations), Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–5745.

Dated: November 9, 1984.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 84-30372 Filed 11-19-84; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 225
Tuesday, November 20, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

DEPARTMENT OF DEFENSE, UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES, DOD

Notice of Meeting.

SUMMARY: The Uniformed Services University of the Health Sciences will meet in open session on November 19, 1984 at 8:00 am at the Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814. This is a Board of Regents Meeting and matters to be considered are (1) Approval of Minutes, 10 September 1984, (2) Faculty Appointments, (3) Report—Associate Dean for Operations: Budget, Program Budget Decision 079 and Univrsity Response, construction update, (4) Report—President USUHS: (a) Graduate Program: Certification of Graduate Students, Continuing Medical Education (CME) Program, (b) F. Edward Hebert School of Medicine: Reciprocal Training Programs, Memoranda of Understanding With United Kingdom, (c) Institutional Profile, (d) Henry M. Jackson Foundation for the Advancement of Military Medicine—Letters to House and Senate Leaderships; (e) Report on Audit Report, (f) Informational Items, (5) Comments by Members, Board of Regents, (6) Comments by Chairman, Board of Regents. The next meeting is scheduled for January 1985.

FOR ADDITIONAL INFORMATION CONTACT: Donald L. Hagengruber, (202) 295-3049.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 14, 1984.

[FR Doc. 84-30370 Filed 11-16-84; 4:00 pm]

BILLING CODE 3810-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Wednesday, November 14, 1984, the Corporation's Board of Directors 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 the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of First American Bank of Amery, Amery, Wisconsin, an insured State nonmember bank, for consent to merge, under its charter and title, with first American Bank of Colfax, Colfax, Wisconsin, and for consent to establish the sole office of First American Bank of Colfax as a branch of the resultant bank.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter 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 by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: November 14, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-30478 Filed 11-16-84; 11:41 am]

BILLING CODE 6714-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 14, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, November 21, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Youghiogheny & Ohio Company, Docket No. LAKE 83-86. (Issues include whether the administrative law judge erred in concluding that the operator violated 30 CFR 75.308, a mandatory safety standard dealing with the accumulation of methane in mine working places.)

Any person intending to attend this meeting who requires special accessibility features and/or any auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 150(a)(3) and 160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-3629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84-30477 Filed 11-16-84; 11:09 am]

BILLING CODE 6735-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-36]

TIME AND DATE: 9 a.m., Tuesday, November 20, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A majority of the Board determined by recorded vote that the business of the Board required holding this meeting and that no earlier announcement was possible.

1. *Marine Accident Report:* Grounding of the United States Tank Ship S.S. MOBILOIL in the Columbia river, near Saint Helens, Oregon, March 19, 1984.
2. *Reconsideration of Probable Cause:* Aviation Accident Report: Cessna A185E,

Middleton Airport, Evergreen, Alabama, January 3, 1981.
3. *Opinion and Order:* Petition of Willett, Docket, SM-3207; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Fleming (202) 382-6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

November 16, 1984.

[FR Doc. 84-30485 Filed 11-16-84; 11:30 am]

BILLING CODE 7533-01-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-35]

TIME AND DATE: 10:30 a.m., Friday, November 16, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board determined by recorded vote that the business of the Board required holding this meeting at this time and that no earlier announcement was possible.
1. Briefing by Boeing Company on windshear training.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

H. Ray Smith, Jr.,

Federal register Liasion Officer.

November 16, 1984.

[FR Doc. 84-30486 Filed 11-16-84; 11:30 am]

BILLING CODE 7533-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 19, 26, December 3, and 10, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 19

Monday, November 19

1:30 p.m.—Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Tuesday, November 20

10:00 a.m.—Semi-Annual Briefing on Appraisal of Operating Experience (Public Meeting)

Wednesday, November 21

9:30 a.m.—Briefing and Discussion of Issues in Operation of San Onofre Unit 1 (Public Meeting)

11:30 a.m.—Affirmation Meeting (Public Meeting)
a. Suggested Revision to Order Proposed Concerning Shoreham Low Power License

Week of November 26—Tentative

Tuesday, November 27

10:00 a.m.—Affirmation Meeting (Public Meeting) (if needed)

Week of December 3—Tentative

Monday, December 3

2:00 p.m.—Discussion/Possible Vote on Severe Accident Policy Statement (Public Meeting)

Wednesday, December 5

10:00 a.m.—Discussion of Indian Point Order (Public Meeting) (if needed)
2:00 p.m.—Discussion of Criteria for Important to Safety and Safety Related (Public Meeting)

Thursday, December 6

2:00 p.m.—Affirmation Meeting (Public Meeting) (if needed)

Week of December 10—Tentative

Monday, December 10

1:00 p.m.—Discussion of Adjudication Matters Related to Catawba-1 (Closed—Ex. 10) (if needed)
2:00 p.m.—Discussion/Possible Vote on Full Power Operating License for Catawba-1 (Public Meeting)

Tuesday, December 11

10:00 a.m.—Staff Follow-up to 11/15 DOE Briefing on High Level Waste Program (Public Meeting)

Wednesday, December 12

2:00 p.m.—Year End Budget Review (Public Meeting)

Thursday, December 13

2:00 p.m.—Affirmation Meeting (Public Meeting) (if needed)

Friday, December 14

10:00 a.m.—Discussion of 1985 Policy and Planning Guidance (Public Meeting)
2:00 p.m.—Briefing and Discussion on the Hearing Process (Public Meeting)

ADDITIONAL INFORMATION:

OI Briefing (Closed—Ex. 5, 6, & 7) was held on November 2.

Affirmation of "Aamodt Motion for Investigation of Radioactive Releases during the TMI-2 Accident" scheduled for November 15, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

George T. Mazuzan,

Office of the Secretary.

November 16, 1984

[FR Doc. 84-30552 Filed 11-16-84; 3:59 pm]

BILLING CODE 7590-01-M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. The Council will hold an Executive Session to discuss pending litigation.

TIME AND DATE: November 28-29, 1984, 9:00 a.m.

PLACE: Council Office Meeting Room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

1. Council Decision on Possible Exemptions to Council's Model Conservation Standards.
2. Staff Presentation on Increasing the Interruptibility of the Direct Service Industries.
3. Staff Presentation on Cost of Delaying the Model Conservation Standards.
4. Staff Presentation on Economic/Demographic Assumptions.
5. Staff Presentation on Power Planning Division Workplan.
6. Staff Presentation and Public Comment on Fish and Wildlife Goals.
7. Council Business.

Public comment will follow each item.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-30476 Filed 11-16-84; 11:09 am]

BILLING CODE 0000-00-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 19, 1984, at 450 Fifth Street, N.W., Washington, D.C.

Open meetings will be held on Monday, November 19, 1984, at 1:00 p.m. and on Tuesday, November 20, 1984 at 2:30 p.m. in Room 1C30. A closed meeting will be held on Tuesday, November 20, 1984, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has

certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Cox, Marinaccio and Peters voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Monday, November 19, 1984, at 1:00 p.m., will be:

The Commission will meet with the Public Oversight Board (POB) of the American Institute of Certified Public Accountants to discuss oversight of accounting firms which practice before the Commission. The POB is an independent board of prominent individuals established by the AICPA to oversee the activities of the SEC Practice Section of the AICPA's Division for CPA Firms and to represent the public interest in the performance of its oversight function. The POB also serves as a liaison between the Commission and the SEC Practice Section and coordinates access by the Commission to the peer review process. Topics of discussion are expected to include the interrelationship of the components of the regulatory process, quality control standards established by the AICPA to govern the accounting and auditing practices of accounting firms, the effect of membership in the SEC Practice Section on the quality of practice of member firms, POB and Commission oversight of the peer review process, and the SEC Practice Section's Special Investigations Committee which was established to investigate alleged audit failures. For further information, please contact Ed Coulson at (202) 272-2050.

The subject matter of the closed meeting scheduled for Tuesday, November 20, 1984, at 10:00 a.m., will be:

Litigation matter.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Tuesday, November 20, 1984, at 2:30 p.m., will be:

1. Consideration of whether to grant the application filed pursuant to Section 9(c) of the Investment Company Act of 1940 by Walter E. Robb, III for exemptive relief from the prohibitions of Section 9(a) of that Act. For further information, please contact Gary Sundick at (202) 272-2344.
2. Consideration of whether to propose for public comment an amendment to Rule 22c-1 and a new Rule 22e-2 under the Investment Company Act of 1940 which would limit the days on which an investment company must price its redeemable securities to customary United States business days, and would provide that an investment company which prices its redeemable securities in accordance with rule 22c-1 will not be in violation of Section 22(e). For further information, please contact Jay B. Gould at (202) 272-2107.
3. Consideration of whether to propose for public comment Rule 151 under the Securities Act of 1933 (the "Act") which would provide a safe harbor for certain types of annuity contracts by defining the term "annuity contract," as used in Section 3(a)(8) of the Act. For further information, please contact Karen L. Skidmore at (202) 272-2067.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Barry Mehlman (202) 272-2014.

November 16, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-30532 Filed 11-16-84; 3:24 pm]

BILLING CODE 8010-01-M

Federal Register

Tuesday
November 20, 1984

Part II

Department of Education

34 CFR Parts 76 and 208 and Chapter VI
State Grants for Strengthening Skills of Teachers and Instruction in Mathematics, Science, Foreign Language and Computer Learning; Proposed Rules

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education and Office of Postsecondary Education

34 CFR Parts 76 and 208 and Chapter VI

State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations for the program of State grants for strengthening the skills of teachers and instruction in mathematics, science, foreign languages, and computer learning. The proposed regulations implement Sections 201–211 and 213 of Title II of the Education for Economic Security Act. Under this program, assistance is provided to State educational agencies to strengthen elementary and secondary education programs and to State agencies for higher education to strengthen higher education programs.

DATE: Comments must be received on or before January 4, 1985.

ADDRESSES: Comments should be addressed to Dr. Walter E. Steidle, Chairman, Mathematics and Science Teacher Education Improvement Task Force, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 2010, FOB–6), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Walter E. Steidle. Telephone: (202) 245–7965.

SUPPLEMENTARY INFORMATION:

Background

On August 11, 1984, the President signed into law the Education for Economic Security Act (Pub. L. 98–377), 98 Stat. 1267, 20 U.S.C. 3901 *et seq.* The Act is designed to improve the quality of mathematics and science teaching and instruction in the United States. Title II of the Act authorizes the Secretary to make financial assistance available to States to improve the skills of teachers and instruction in mathematics, science, foreign languages, and computer learning, and to increase the access of all students to that instruction. Title II also authorizes the Secretary to make discretionary grants for programs of national significance in mathematics and science instruction, computer learning, and instruction in critical foreign languages.

The proposed regulations in Part 208 do not apply to the Secretary's discretionary grants in Section 212 of Title II. Rather, these proposed regulations implement the program of formula grants to States authorized by Sections 201–211 and 213 of Title II. These formula grants to States include funds for elementary and secondary education programs and funds for higher education programs.

To receive funds under Part 208, a State must file with the Secretary an application that designates the State educational agency (SEA) as the agency responsible for the administration and supervision of elementary and secondary education programs, and the State agency for higher education as the agency responsible for higher education programs. For the second year for which funds are available under Part 208, a State must file an assessment of need.

For Fiscal Year 1985, Congress appropriated $100,000,000 for all programs authorized under Title II. This amount includes the funds required to be expended under the Secretary's Discretionary Fund for Programs of National Significance authorized under Section 212 of Title II.

Summary of Provisions in These Proposed Regulations

Regulations That Apply to Programs Under Part 208

Section 208.2 indicates that, with two exceptions, the proposed regulations apply to all programs for which the Secretary provides financial assistance under Part 208. Those exceptions are the proposed regulations in Subpart B, which do not apply to higher education programs authorized under Section 207 of Title II, and the proposed regulations in Subpart C, which do not apply to elementary and secondary education programs authorized under Section 206 of Title II. In addition, as § 208.2 indicates, the Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities) apply to programs under Part 208.

State Application Procedures

Sections 208.11–208.13 implement Sections 208 and 209 of Title II. As indicated in § 208.11, a State that desires to receive a grant under Part 208 must have on file with the Secretary an application and, for the second year for which funds are made available, an assessment of need. Sections 208.12 and 208.13 contain the requirements for State applications and State assessments of need, respectively. As those sections indicate, both the State application and the State assessment of need may be submitted in any form that the State determines is appropriate, provided they contain certain specified provisions.

Under § 208.13, a State does not have to file its assessment of need in order to receive its first grant award. Rather, no later than nine months after the date for which funds first become available for obligation under Part 208, the State must prepare and make available to local educational agencies (LEAs) within the State a preliminary assessment of the status of mathematics, science, foreign languages, and computer learning within the State's public and private elementary and secondary schools and institutions of higher education. The State must prepare a final version of this assessment for submission to the Secretary no later than the end of the first year for which funds are made available.

A State must file an application under § 208.12 with the Secretary in order to receive its first grant award under Part 208. This application, however, does not have to be resubmitted for the State to receive future payments. Instead, the State need only submit any needed amendments, in accordance with 34 CFR 76.140–76.141. In addition, for the second year for which funds are available under Part 208, the State must amend the program description in the application, in accordance with § 208.12(b)(2), to describe how the services provided in the State address unmet needs identified in the final State assessment of need.

Allotment Procedures

Sections 208.21–208.24, which implement Sections 204 and 205 of Title II, contain the Secretary's procedures for allotting funds appropriated for use under Part 208. Under § 208.21, the Secretary determines the amount of funds to be allotted to a State for each fiscal year on the basis of the number of children aged five to seventeen, inclusive, within the State compared to the total number of those children in all the States. In no case, however, may the amount a State is eligible to receive be less than 0.5 percent of the amount of funds available for grants to States under Part 208. From the amount of funds a State is eligible to receive, the Secretary allots to the State seventy (70) percent for use in elementary and secondary education programs and

thirty (30) percent for use in higher education programs.

From the amount available for purposes of Section 204(c) of Title II for each fiscal year, the Secretary allots, under § 208.23, up to one-half of that amount among the Insular Areas according to their respective needs. The Secretary allots, under § 208.24, not less than one-half of the amount available for purposes of Section 204(c) to the Bureau of Indian Affairs for programs under this part for children in elementary and secondary schools operated for Indian children by the Department of the Interior.

Elementary and Secondary Education Program Requirements

Sections § 208.31–208.36 implement Sections 206, 209, and 210 of Title II. As indicated in § 208.31(a), an LEA must submit to the SEA an application and an assessment of need in order to receive funds under Part 208. Sections 208.32(a) and 208.33 describe the content of the application and the assessment of need, respectively. As § 208.33(c) indicates, an LEA's assessment of need must reflect the needs of children and teachers in both public and private elementary and secondary schools in the LEA.

In order that an LEA may participate as soon as possible in programs under Part 208, the Secretary anticipates that the LEA will submit these documents, and therefore be eligible to receive funds, prior to receipt of the SEA's preliminary assessment of need required in § 208.13. The LEA's application and assessment of need do not have to be resubmitted. However, § 208.32(b) does require submission of certain information in order for the LEA to receive a renewal of funds under Part 208.

Section 208.35 describes the permissible uses of funds by LEAs. As § 208.35(a) indicates, an LEA must first use the funds it receives under Part 208 to satisfy the needs the LEA has identified for the expansion and improvement of inservice training and retraining in mathematics and science of teachers and other appropriate school personnel in public and private schools. If the LEA determines that it does not need some or all of the funds it receives under Part 208 to meet these needs, the LEA may request the SEA to waive the provisions in § 208.35(a) in order that the LEA may use the funds not needed for retraining and inservice training in mathematics and science for computer learning and instruction, foreign language instruction, and instructional materials and equipment related to mathematics and science. In granting the LEA's request for a waiver, the SEA must ensure that the LEA will meet the requirements for the equitable participation of children and teachers in private schools.

Higher Education Program Requirements

Sections 208.41–208.43 implement Section 207 of Title II. The proposed regulations describe the procedures for the allocation of funds between the State agency for higher education and institutions of higher education, and discuss the use of funds by these agencies.

Supplement, Not Supplant

Section 209(b)(6) of Title II provides that funds made available under Part 208 may be used only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of funds made available under Part 208, be available for the purposes described in Sections 206 and 207 of Title II. As indicated in § 208.51, the Secretary interprets Section 209(b)(6) of Title II to prohibit the supplanting of funds from non-Federal sources.

Participation of Children and Teachers in Private Schools

Section 208.61 implements the requirements in Section 211(a)–(b) of Title II for the equitable participation of private school children and teachers in the purposes and benefits of Title II. As indicated in § 208.61(a), the requirement for the equitable participation of children applies to SEAs and LEAs. To make the requirement for the equitable participation of teachers in Section 211(b) of Title II consistent with other statutory provisions, § 208.61(b) makes that requirement applicable to SEAs, LEAs, and State agencies for higher education. Section 208.61 and 34 CFR 76.651–76.662 implement the equitable participation requirements.

If an SEA, LEA, or State agency for higher education is prohibited by law from providing, or if the Secretary determines that an agency has substantially failed or is unwilling to provide, for this equitable participation, Section 211(c) of Title II requires the Secretary to arrange to provide benefits under Part 208 through a bypass. Sections 208.62–208.67 implement Section 211(c) of Title II. These proposed sections contain the procedures for a bypass, including notice by the Secretary of the Secretary's intent to implement a bypass, the appointment of a hearing officer, and hearing procedures.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would primarily affect States and State agencies, which are not considered to be small entities under the Regulatory Flexibility Act. To the extent that the proposed regulations would affect small LEAs and small institutions of higher education, there would not be a significant economic impact since the burdens that would be imposed are minimal. Moreover, the statute permits an LEA to enter into arrangements with one or more LEAs within the State, with the SEA, or with both the SEA and LEAs to carry out authorized activities. Thus, a small LEA has the option of filing an application for benefits on its own behalf or, to achieve economies of scale, of sharing responsibility with other LEAs or with the SEA.

Paperwork Reduction Act of 1980

The information collection requirements contained in these proposed regulations at §§ 208.12, 208.13, 208.32, and 208.33 will be sent to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

A copy of any comments that only concern information collection requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, DC 20503. Attention: Desk Officer for the U.S. Department of Education.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early

notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Comments are particularly invited on two sections. Section 208.12(a)(4)(ii) requires a State's application to include procedures for approving applications by the "appropriate State agency, including procedures to ensure that the State agency will not disapprove an application without notice and opportunity for a hearing in accordance with 34 CFR 76.401." The Secretary, however, does not interpret disapproval of applications to include a determination by a State agency for higher education as to the relative merit of a competing application under § 208.41(a). The Secretary is interested in receiving comments on any problems this provision may pose.

The Secretary also requests specific comments on § 208.24. Section 208.24 implements Section 204(c) of Title II, which requires the Secretary to allot not less than one-half of the funds available for purposes of Section 204(c) "to such agency as the Secretary deems appropriate" for programs for children in elementary and secondary schools operated for Indian children by the Department of the Interior. As § 208.24 indicates, the Secretary proposes to allot these funds to the Bureau of Indian Affairs in the Department of the Interior. The Secretary, however, requests comments on whether allotment to another agency or organization or retention by the Department of Education would be more appropriate.

Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before January 4, 1985 will be considered in developing the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2010, FOB–6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 76

Grant programs-education, Grants administration, State-administered programs.

34 CFR Part 208

Colleges and universities, Education, Education of disadvantaged, Elementary and secondary education, Foreign languages, Grant programs—education, Private schools, Reporting and recordkeeping requirements, Science and technology, Teachers, Training program, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations. Unless otherwise noted, the citations refer to sections of the Education for Economic Security Act.

(Catalog of Federal Domestic Assistance No. not assigned yet)

Dated: November 16, 1984.

T.H. Bell,

Secretary of Education.

The Secretary proposes to amend Part 76, add a new Part 208, and amend Chapter VI of Title 34 of the Code of Federal Regulations as follows:

PART 76—STATE-ADMINISTERED PROGRAMS

§ 76.1 [Amended]

1. In the table in § 76.1, "A. Elementary and Secondary Education Programs" is amended by adding the following language:

State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning. . . . Sections 201–206, 208–211, 213 of Title II of the Education for Economic Security Act (20 U.S.C. 3961–3966, 3968–3971, 3973). . . . Part 208 (except Subpart C). . . . 84.———.

2. In the table in § 76.1, "D. Higher Education Program" is amended by adding the following language:

State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning. . . . Sections 201–205, 207–211, 213 of Title II of the Education for Economic Security Act (20 U.S.C. 3961–3965, 3967–3971, 3973). . . . Part 208 (except Subpart B). . . . 84.———.

3. Section 76–102 is amended by redesignating paragraph (x) as paragraph (y) and adding a new paragraph (x) to read as follows:

§ 76.102 Definition of "State plan" for Part 76.

* * * * *

(x) *Math-science programs.* The State application under Section 209 of Title II of the Education for Economic Security Act.

* * * * *

4. In § 76.103, is amended by removing the "and" after paragraph (c)(2), by removing the period and adding "; and" after paragraph (c)(3), and by adding a new paragraph (c)(4) to read as follows:

§ 76.103 Three-year State plans.

* * * * *

(c) * * *

(4) The State application under Section 209 of Title II of the Education for Economic Security Act.

* * * * *

§ 76.125 [Amended]

5. In the table in § 76.125, "Other Elementary and Secondary Program" is amended by adding the following language:

84. ———State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning . . . Title II of the Education for Economic Security Act (20 U.S.C. 3961–3971, 3973) * * * 208.

6. In § 76.401, is amended by adding a new paragraph (a)(8) to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) * * *

(8) State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning.

* * * * *

§ 76.563 [Amended]

7. The table in § 76.563 is amended by adding the following language:

State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning * * * Section 201–211, 213 of Title II of the Education for Economic Security Act

8. A new Part 208 is added to read as follows:

PART 208—STATE GRANTS FOR STRENGTHENING THE SKILLS OF TEACHERS AND INSTRUCTION IN MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

Subpart A—How States Obtain Funds for Programs Under This Part

General

Authority: Secs. 201–211, 213, of Title II of the Education for Economic Security Act, Pub. L. 98–377, 98 Stat. 1273–1282 (20 U.S.C. 3961–3971, 3973), unless otherwise noted.

Subpart A—How States Obtain Funds for Programs Under This Part

General

§ 208.1 Purpose.

The Secretary provides financial assistance under this part to States to—

(a) Improve the skills of teachers and instruction in mathematics, science, foreign languages, and computer learning; and

(b) Increase the access of all students to this instruction.

(Sec. 201, 20 U.S.C. 3961)

§ 208.2 Regulations that apply to programs under this part.

The following regulations apply to programs for which the Secretary provides financial assistance under this part:

(a) The regulations in this part, except that—

(1) Subpart C does not apply to elementary and secondary education programs authorized under Section 206 of Title II; and

(2) Subpart B does not apply to higher education programs authorized under Section 207 of Title II.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(Secs. 201–211, 213, 20 U.S.C. 3961–3971, 3973)

§ 208.3 Definitions that apply to programs under this part.

(a) *Definitions in the Education for Economic Security Act.* The following terms used in this part are defined in Sections 3 and 202 of the Education for Economic Security Act:

Area vocational education school
Elementary school
Governor
Institution of higher education
Junior or community college
Local educational agency
Secondary school
Secretary
State
State agency for higher education
State educational agency

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Application
Department
EDGAR
Fiscal Year
Nonprofit
Private
Public

(c) *Additional definitions.* The following terms are used in this part:

"Critical foreign languages" means languages designated by the Secretary in a notice published in the **Federal Register** as critical to national security, economic, or scientific needs.

"ECIA" means the Education Consolidation and Improvement Act of 1981, 20 U.S.C. 3801 et seq.

"Gifted and talented student" means a student, identified by various measures, who demonstrates actual or potential high performance capability in the fields of mathematics, science, foreign languages, or computer learning.

"Historically underrepresented and underserved groups" include females, minorities, handicapped persons, persons of limited-English proficiency, and migrants.

"Private nonprofit organizations" include museums, libraries, educational television stations, professional science, mathematics, and engineering associations, and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, and critical foreign languages that meet the definitions of "private" and "nonprofit" in 34 CFR 77.1.

"Title II" means Title II of the Education for Economic Security Act.

(Secs. 3, 201–211, 213, 20 U.S.C. 3902, 3961–3971, 3973; Sec. 408(a)(1) of GEPA, 20 U.S.C. 1221e–3(a)(1); 34 CFR 77.1)

§§ 208.4–208.10 [Reserved]

State Application Procedures

§ 208.11 Conditions a State must meet to receive funds.

A State that desires to receive funds under this part shall have on file with the Secretary—

(a) An application that meets the requirements in § 208.12; and

(b) For the second year for which funds are made available, a State assessment of need submitted in accordance with the requirements in § 208.13.

(Secs. 208, 209, 20 U.S.C. 3968, 3969)

§ 208.12 State application.

(a) *Contents.* A State application may be submitted in any form that the State determines is appropriate, provided the application—

(1) Designates the—

(i) State educational agency (SEA) as the agency responsible for the administration and supervision of the elementary and secondary education

programs described in Subpart B of this part; and

(ii) State agency for higher education as the agency responsible for the administration and supervision of higher education programs described in Subpart C of this part;

(2) Describes the programs for which funds will be used under this part;

(3) Provides assurances that payments will be distributed by the State in accordance with the provisions of §§ 208.34 and 208.41;

(4) Provides procedures for—

(i) Submitting applications for the programs described in Subpart B and C of this part; and

(ii) Approval of applications by the appropriate State agency, including procedures to ensure that the State agency will not disapprove an application without notice and opportunity for a hearing in accordance with 34 CFR 76.401. The Secretary does not interpret disapproval of an application to include a determination by a State agency for higher education as to the relative merit of a competing application under § 208.41(a);

(5) Provides assurances that—

(i) The State will prepare and submit the assessment of need required under § 208.13;

(ii) In the second year for which funds are available under this part, the State will seek funds for purposes consistent with the findings of the State assessment of need;

(iii) For programs described in Subpart B of this part, the provisions of Section 210 of Title II will be carried out; and

(iv) To the extent feasible, evaluation of the programs assisted will be performed;

(6) Provides assurances that funds made available under this part will be used to supplement and not supplant non-Federal funds in accordance with § 208.51;

(7) Provides assurances for the equitable participation of private school children and teachers in the purposes and benefits of Title II in accordance with § 208.61; and

(8) Provides fiscal control and accounting procedures to—

(i) Ensure proper accounting of funds made available under this part; and

(ii) Ensure the verification of the programs assisted under this part.

(b) *Amendments.* (1) A State shall amend its application as necessary in accordance with the provisions in 34 CFR 76.140–76.141.

(2)(i) For the second year for which funds are made available under this part, the State shall amend the program description required under paragraph (a)(2) of this section to describe how the services provided in the State address unmet needs identified in the final State assessment of need required under § 208.13(a)(2).

(ii) To meet the requirement in paragraph (b)(2)(i) of this section, the state may cross-reference the program description in § 208.13(b)(2) if that description includes the information required in paragraph (b)(2)(i) of this section.

(c) *Approval.* The Secretary approves any State application that meets the requirements of this section.

(Sec. 209, 20 U.S.C. 3969)

§ 208.13 State assessment of need.

(a) A State shall—

(1) After examining the local assessments submitted under § 208.33, prepare and make available to local educational agencies (LEAs) within the State a preliminary assessment of the status of mathematics, science, foreign languages, and computer learning within the State's public and private elementary and secondary schools and institutions of higher education no later than nine months following the date for which funds first become available for obligation under this part; and

(2) Prepare a final version of the assessment for submission to the Secretary no later than the end of the first year for which funds under this part are made available.

(b) The State assessment may be submitted in any form that the State determines is appropriate, provided the assessment—

(1) Describes and provides a five-year projection of—

(i) The availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

(ii) The qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels;

(iii) The qualifications of teachers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

(iv) The State standards for teacher certification, including any special exceptions currently made, for teachers of mathematics, science, foreign languages, and computer learning;

(v) The availability of adequate curricula and instructional materials and equipment in mathematics, science, foreign languages, and computer learning; and

(vi) The degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically under represented and underserved groups and of the gifted and talented; and

(2) Describes the programs, initiatives, and resources committed or projected to be undertaken within the State to—

(i) Improve teacher recruitment and retention in the fields of mathematics, science, foreign languages, and computer learning;

(ii) Improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer learning;

(iii) Improve curricula in mathematics, science, foreign languages, and computer learning, including instructional materials and equipment; and

(iv) Improve access for historically underrepresented and underserved groups and for the gifted and talented to instruction in mathematics, science, foreign languages, and computer learning.

(c) The State assessment must be—

(1) Developed in consultation with the Governor, State legislature, State Board of Education, LEAs within the State, and representatives within the State of—

(i) Vocational secondary schools and area vocational education schools;

(ii) Public and private institutions of higher education;

(iii) Teacher organizations;

(iv) Private industry;

(v) Other public and private nonprofit organizations; and

(vi) Private elementary and secondary schools; and

(2) Submitted jointly by the SEA and the State agency for higher education.

(Sec. 208, 20 U.S.C. 3968)

§§ 208.14–208.20 [Reserved]

Allotment Procedures

§ 208.21 Allotment to States.

(a)(1) From ninety (90) percent of the funds appropriated under Title II for each fiscal year, the Secretary calculates for each State an amount that bears the same ratio to the ninety (90) percent as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all States except that the amount for any State will not be less than 0.5 percent of the amount available under this section in any fiscal year.

(2) For purposes of this section—

(i) The term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands; and

(ii) The Secretary determines the number of children aged five to

seventeen, inclusive, on the basis of the most recent satisfactory data available from the Bureau of the Census.

(b) From the amount of funds that a State is eligible to receive under paragraph (a) of this section, the Secretary allots to the State—

(1) Seventy (70) percent of those funds for use in elementary and secondary education programs under Section 206 of Title II and Subpart B of this part; and

(2) Thirty (30) percent of those funds for use in higher education programs under Section 207 of Title II and Subpart C of this part.

(Secs. 204(a), 205, 20 U.S.C. 3964(a), 3965)

§ 208.22 Reallotment to States.

(a) If the Secretary determines for any fiscal year that the full amount a State receives under § 208.21 is not required for that fiscal year to carry out the purposes of this part, the Secretary reallots the excess funds to other States in proportion to the original allotments to those States under § 208.21 for that year.

(b) If the Secretary determines that the amount to be realloted to a State under paragraph (a) of this section exceeds the amount the State needs and will be able to use for that year, the Secretary reduces the amount for that State and reallots the excess funds proportionately among the remaining States.

(c) Any funds reallotted to a State are considered part of the State's allotment under § 208.21 for that year.

(Sec. 204(b), 20 U.S.C. 3964(b))

§ 208.23 Allotment to the Insular Areas.

(a)(1) From the amount available for carrying out Section 204(c) of Title II for each fiscal year, the Secretary allots up to one-half of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

(2) The Secretary determines respective needs according to the relative number of children aged five to seventeen, inclusive, within each Insular Area. To make this determination, the Secretary uses the most recent satisfactory data available from the Bureau of the Census.

(b) An Insular Area may include the funds it is eligible to receive under paragraph (a) of this section in its consolidated grant application in accordance with 34 CFR 76.125–76.137.

(Sec. 204(c), 20 U.S.C. 3964(c); S. Rep. No. 151, 98th Cong., 1st Sess. 12 (1984))

§ 208.24 Allotment to the Bureau of Indian Affairs.

(a) From the amount available for carrying out Section 204(c) of Title II for each fiscal year, the Secretary allots not less than one-half of that amount to the Bureau of Indian Affairs for programs under this part for children in elementary and secondary schools operated for Indian children by the U.S. Department of the Interior.

(b) The Bureau of Indian Affairs does not have to comply with the requirements for higher education programs in Section 207 of Title II and Subpart C of this part.

(Sec. 204(c), 20 U.S.C. 3964(c); S. Rep. No. 151, 98th Cong., 1st Sess. 12 (1984))

§§ 208.25–208.30 [Revised]

Subpart B—Elementary and Secondary Education Program Requirements

§ 208.31 Conditions an LEA must meet to receive funds.

(a) For the first year for which funds are made available under this part, an LEA that desires to receive an allocation of funds shall submit to the SEA an—

(1) Application that meets the requirements of § 208.32(a); and

(2) Assessment of need that meets the requirements of § 208.33.

(b) To receive a renewal of funds under this part, the LEA shall submit to the SEA the information required in § 208.32(b).

(Secs. 206(b)(3), 209(b)(4), 210, 20 U.S.C. 3966(b)(3), 3969(b)(4), 3970)

§ 208.32 LEA application and renewal.

(a) *Application.* Each LEA application must include—

(1) Information the SEA may require describing the LEA's proposed activities and expenditures of funds for those activities under § 208.35;

(2) Any assurance the SEA may require to ensure that the LEA will comply with the provisions of Title II and this part; and

(3) An assurance that programs of inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers for students from historically underrepresented and underserved groups.

(b) *Renewal.* To receive a renewal of funds under this part, an LEA shall submit to the SEA—

(1) Evidence that shows the LEA is implementing the programs assisted under this part so that—

(i) A substantial number of teachers in public and private schools in the LEA are being served; and

(ii) Several grade levels of instruction are involved in the LEA's program;

(2) A description of how the services assisted will address unmet needs described in the State's assessment of need in § 208.13; and

(3) Any other information required by the SEA.

(Secs. 206(b)(1), (3), 209(b)(4), 210(b), 20 U.S.C. 3966(b)(1), (3), 3969(b)(4), 3970(b))

§ 208.33 LEA assessment of need.

(a) Each LEA assessment must include the need for assistance in—

(1) Teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of—

(i) The availability and qualifications of teachers at the secondary level in the areas of mathematics, science, foreign languages, and computer learning; and

(ii) The qualifications of teachers at the elementary level to teach those areas;

(2) Improving instructional materials and equipment related to mathematics and science education; and

(3) Improving the access to instruction in mathematics, science, foreign languages, and computer learning of students from historically underrepresented and underserved groups and of gifted and talented students based on an assessment of the current degree of access to instruction of these students.

(b) The assessment of need must include a description of—

(1) The types of services to be provided under § 208.35 (a) and (c); and

(2) How the services assisted will meet the program needs of the LEA.

(c) The assessment of need under this section must reflect the needs of children and teachers in public and private elementary and secondary schools in the LEA.

(Secs. 210, 211, 20 U.S.C. 3970, 3971)

§ 208.34 Allocation of funds.

(a) *Funds for LEAs.* An SEA shall distribute to LEAs within the State for use under § 208.35 not less than seventy (70) percent of the funds made available for elementary and secondary education programs under § 208.21(b)(1) as follows:

(1) Fifty (50) percent of the funds must be distributed according to the relative number of children enrolled in public and private schools within the school districts of the LEAs.

(2) Fifty (50) percent of the funds must be distributed based on the relative number of children aged five to seventeen, inclusive, in the public schools of the LEAs within the State who—

(i) Are from families below the poverty level as determined under Section 111(c)(2)(A) of Title I of the Elementary and Secondary Education Act of 1965; and

(ii) Are from families above the poverty level as determined under Section 111(c)(2)(B) of Title I of the Elementary and Secondary Education Act of 1965.

(b) *Funds for SEAs.* An SEA may reserve for use in accordance with § 208.36 not more than thirty (30) percent of the funds made available for elementary and secondary education programs under § 208.21(b)(1).

(Sec. 206(b), 20 U.S.C. 3966(b))

§ 208.35 Use of funds by LEAs.

(a) Except as provided in paragraphs (b) and (c) of this section, an LEA shall use the funds it receives under § 208.34(a) for the expansion and improvement of inservice training and retraining in the fields of mathematics and science of teachers and other appropriate school personnel, including vocational education teachers who use mathematics and science in teaching vocational education courses.

(b)(1) If an LEA determines that it does not need some or all of the funds received under this part to meet the needs identified in its assessment of need for the training and retraining specified in paragraph (a) of this section, the LEA may request the SEA to waive the provisions in paragraph (a) of this section in order that the LEA may use funds not needed under paragraph (a) of this section for programs under paragraph (c) of this section.

(2)(i) If the SEA determines that the LEA does not need some or all of the funds the LEA received under this part to meet the needs identified in the LEA's assessment of need for the training and retraining specified in paragraph (a) of this section, the SEA shall grant the LEA's request for a waiver.

(ii) In granting a waiver, the SEA shall ensure that the LEA will meet the requirements for the equitable participation of children and teachers in private schools in accordance with Section 211 of Title II and 34 CFR 76.651–76.662.

(c)(1) Except as provided in paragraph (c)(2) of this section, if an LEA receives a waiver under paragraph (b) of this section, the LEA shall use funds not needed under paragraph (a) of this section for—

(i) Computer learning and instruction;

(ii) Foreign language instruction; and

(iii) Instructional materials and equipment related to mathematics and science instruction.

(2) Of the funds an LEA receives under § 208.34(a), an LEA may not use more than—

(i) Thirty (30) percent for the purchase of computers and computer-related instructional equipment; and

(ii) Fifteen (15) percent to strengthen instruction in foreign languages.

(d) An LEA may carry out the training and instruction under this section—

(1) Through agreements with public agencies, private industry, institutions of higher education, private nonprofit organizations, and other appropriate institutions; and

(2) In conjunction with one or more LEAs within the State, with the SEA, or with both LEAs and the SEA.

(Secs. 206 (b), (c), 210(c), 211, 20 U.S.C. 3966 (b), (c), 3970(c), 3971)

§ 208.36 Use of funds by SEAs.

(a)(1) Subject to the requirement in paragraph (a)(2) of this section, an SEA shall use not less than twenty (20) percent of the funds made available under § 208.21(b)(1) for the benefit of children in public and private elementary and secondary schools for programs in the fields of mathematics, science, foreign languages, and computer learning for—

(i) Demonstration and exemplary programs for—

(A) Teacher training, retraining, and inservice upgrading of teacher skills;

(B) Instructional materials and equipment and necessary technical assistance; and

(C) Special projects that meet the requirements in paragraph (a)(2) of this section; and

(ii) The dissemination of information relating to demonstration and exemplary programs to all LEAs within the State.

(2) The SEA shall use not less than twenty (20) percent of the funds used to meet the requirement in paragraph (a)(1) of this section for special projects in mathematics, science, foreign languages, and computer learning for—

(i) Students from historically underrepresented and underserved groups; and

(ii) Gifted and talented students. The projects for gifted and talented students may include assistance to magnet schools for those students.

(b) An SEA shall use not less than five (5) percent of the funds made available for elementary and secondary education programs under § 208.21(b)(1) to provide technical assistance to LEAs and, if appropriate, institutions of higher education and private nonprofit organizations that are conducting programs under § 208.35.

(c) An SEA may not use more than five (5) percent of the funds made available for elementary and secondary education programs under § 208.21(b)(1) for—

(1) The State assessment of need required by § 208.13; and

(2) The costs incurred by the SEA for administering and evaluating programs assisted under this part in the State.

(Secs. 206(d)–(f), 211, 20 U.S.C. 3966(d)–(f), 3971)

§§ 208.37–208.40 [Reserved]

Subpart C—Higher Education Program Requirements

§ 208.41 Allocation funds.

(a) *Funds for institutions of higher education.* (1) A state agency for higher education shall distribute on a competitive basis to institutions of higher education within the State that apply for payments not less than seventy-five (75) percent of the funds made available for higher education programs under § 208.21(b)(2).

(2) The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

(b) *Funds for State agencies for higher education.* A State agency for higher education may reserve for use in accordance with § 208.42 not more than twenty-five (25) percent of the funds made available for higher education programs under § 208.21(b)(2).

(Sec. 207(b), 20 U.S.C. 3967(b))

§ 208.42 Use of funds by State agencies for higher education.

(a)(1) Subject to the requirement in paragraph (a)(2) of this section, a State agency for higher education shall use not less than twenty (20) percent of the funds made available for higher education programs under § 208.21(b)(2) for cooperative program among institutions of higher education, LEAs, SEAs, private industry, and private nonprofit organizations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, and critical foreign languages.

(2) In carrying out the requirement in paragraph (a)(1) of this section, the State agency for higher education shall give special consideration to programs

involving consortial arrangements that include LEAs.

(b) A State agency for higher education may not use more than five (5) percent of the funds made available for higher education programs under § 208.21(b)(2) for—

(1) The State assessment of need required by § 208.13; and

(2) The costs incurred by the State agency for higher education for administering and evaluating program assisted under this part in the State.

(Sec. 207(c), 211(b), 20 U.S.C. 3967(c), (d), 3971(b))

§ 208.43 Use of funds by institutions of higher education.

(a) Subject to the requirement in paragraph (b) of this section, an institution of higher education shall use the funds awarded under § 208.41(a) for—

(1) Establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

(2) Retraining secondary school teachers, who specialize in disciplines other than the teaching of mathematics and science, to specialize in the teaching of mathematics, science, or computer learning, including provision of stipends for participation in institutes authorized under Title I of the Education for Economic Security Act; and

(3) Inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics, science, and computer learning, including stipends for participation in institutes authorized under Title I of the Education for Economic Security Act.

(b) To receive funds for programs under paragraphs (a)(2) and (3) of this section, an institution of higher education shall enter into an agreement with an LEA, or a consortium of LEAs, to provide inservice training and retraining for elementary and secondary school teachers in public and private schools in the LEA or LEAs.

(c) Each institution of higher education receiving funds under § 208.41(a) shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, and computer learning and careers for—

(1) Students from historically underrepresented and underserved groups; and

(2) Gifted and talented students.

(Sec. 207(b), 20 U.S.C. 3967(b))

§§ 208.44–208.50 [Reserved]

Subpart D—Fiscal Requirements

§ 208.51 Supplement, not supplant.

Any grantee or subgrantee that receives funds under this part—

(a) May use those funds only to supplement and, to the extent practicable, increase the level of funds from non-Federal sources that would, in the absence of funds made available under this part, be made available for the purposes described in Sections 206 and 207 of title II; and

(b) May not use funds made available under this part to supplant funds from non-Federal sources.

(Sec. 209(b)(6), 20 U.S.C. 3969(b)(6))

§§ 208.52–208.60 [Reserved]

Subpart E—Participation of Children and Teachers in Private Schools

§ 208.61 Participation of children and teachers in private schools.

(a) *Participation of children.* To the extent consistent with the number of children in the State or an LEA who are enrolled in private elementary and secondary schools, an SEA or LEA, after consultation with appropriate private school representatives, shall provide services and arangements for the benefit of these children to ensure their equitable participation in the purposes and benefits of Title II.

(b) *Participation of teachers.* (1) To the extent consistent with the number of children in the State or an LEA who are enrolled in private elementary and secondary schools, an SEA, LEA, or State agency for higher education, after consultation with appropriate private school representatives, shall provide teacher training, retraining, and inservice training to ensure the equitable participation of private school teachers in the purposes and benefits of Title II.

(2) To receive funds for programs under § 208.43(a)(2)–(3), an institution of higher education shall meet the requirements in § 208.43(b) for serving teachers in private elementary and secondary schools.

(c) *Applicable requirements.* In fulfilling the equitable participation requirements in paragraphs (a) and (b) of this section, an SEA, LEA, or State agency for higher education shall comply with the provisions in 34 CFR 76.651–76.662.

(Secs. 206(b)(3), 207(b)(3), 211(a), (b), 20 U.S.C. 3966(b)(3), 3967(b)(3), 3971(a), (b))

§ 208.62 Bypass—General.

(a) The Secretary implements a bypass if an SEA, LEA, or State agency for higher education—

(1) Is prohibited by law from providing the services under this part for private school children and teachers on an equitable basis as required in § 208.61; or

(2) Has substantially failed or is unwilling to provide the services under this part for private school children and teachers on an equitable basis as required in § 208.61.

(b) If the Secretary implements a bypass, the Secretary waives the responsibility of the SEA, LEA, or State agency for higher education for providing Title II services for private school children and teachers and arranges to provide the required services. Normally, the Secretary hires a contractor to provide the Title II services for private school children and teachers under a bypass. The Secretary deducts the cost of these services, including any administrative costs, from the appropriate allotment of Title II funds. In arranging for these services, the Secretary consults with appropriate public and private school officials.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(3)(A) or ECIA, 20 U.S.C. 3806(b)(3)(A))

§ 208.63 Notice by the Secretary.

(a) Before any final action to implement a bypass, the Secretary provides the affected SEA, LEA, or State agency for higher education with written notice.

(b) In the written notice, the Secretary—

(1) States the reason for the proposed bypass in sufficient deal to allow the SEA, LEA, or State agency for higher education to respond;

(2) Cites the requirement with which the SEA, LEA, or State agency for higher education has allegedly failed to comply; and

(3) Advises the SEA, LEA, or State agency for higher education that it has at least 45 days from receipt of the written notice to submit written objections to the proposed bypass and to request in writing the opportunity for a hearing to show cause why the bypass should not be implemented.

(c) The Secretary sends the notice to the SEA, LEA, or State agency for higher education by certified mail with return receipt requested.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(4)(A) of ECIA, 20 U.S.C. 3806(b)(4)(A))

§ 208.64 Bypass procedures.

Sections 208.65–208.67 contain the procedures that the Secretary uses in

conducting a show cause hearing. These procedures may be modified by the hearing officer if all parties agree it is appropriate to modify them for a particular case.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(4)(A) of ECIA, 20 U.S.C. 3806(b)(4)(A))

§ 208.65 Appointment and functions of a hearing officer.

(a) If an SEA, LEA, or State agency for higher education requests a show cause hearing, the Secretary oppoints a hearing officer and notifies appropriate representatives of the affected private school children and teachers that they may participate in the hearing.

(b) The hearing officer has no authority to require or conduct discovery or to rule on the validity of any statute or regulation.

(c) The hearing officer notifies the SEA, LEA, State agency for higher education, and representatives of the private school children and teachers of the time and place of the hearing.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(4)(A) of ECIA, 20 U.S.C. 3806(b)(4)(A))

§ 208.66 Hearing procedures.

(a) At the hearing a transcript is taken. The SEA, LEA, State agency for higher education, and representatives of the private school children and teachers each may be represented by legal counsel, and each may submit oral or written evidence and arguments at the hearing.

(b) Within ten days after the hearing, the hearing officer indicates that a decision will be issued on the basis of the existing record, or requests further information from the SEA, LEA, State agency for higher education, representatives of the private school children and teachers, or Department of Education officials.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(4)(A) of ECIA, 20 U.S.C. 3806(b)(4)(A))

§ 208.67 Post-hearing procedures.

(a) Within 120 days after the hearing record is closed, the hearing officer issues a written decision on whether the proposed bypass should be implemented. The hearing officer sends copies of the decision to the SEA, LEA, State agency for higher education, representatives of private school children and teachers, and the Secretary.

(b) The SEA, LEA, State agency for higher education, and representatives of private school children and teachers each may submit written comments on the decision to the Secretary within thirty days from receipt of the hearing officer's decision.

(c) The Secretary may adopt, reverse, or modify the hearing officer's decision.

(Sec. 211(c), 20 U.S.C. 3971(c); Sec. 557(b)(4)(A) of ECIA, 20 U.S.C. 3806(b)(4)(A))

§§ 208.68-208.70 [Reserved]

CHAPTER VI—OFFICE OF POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION

9. A cross-reference is added at the end of the table of contents to read as follows:

Cross-Reference.

Regulations for State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning, 34 CFR Part 208.

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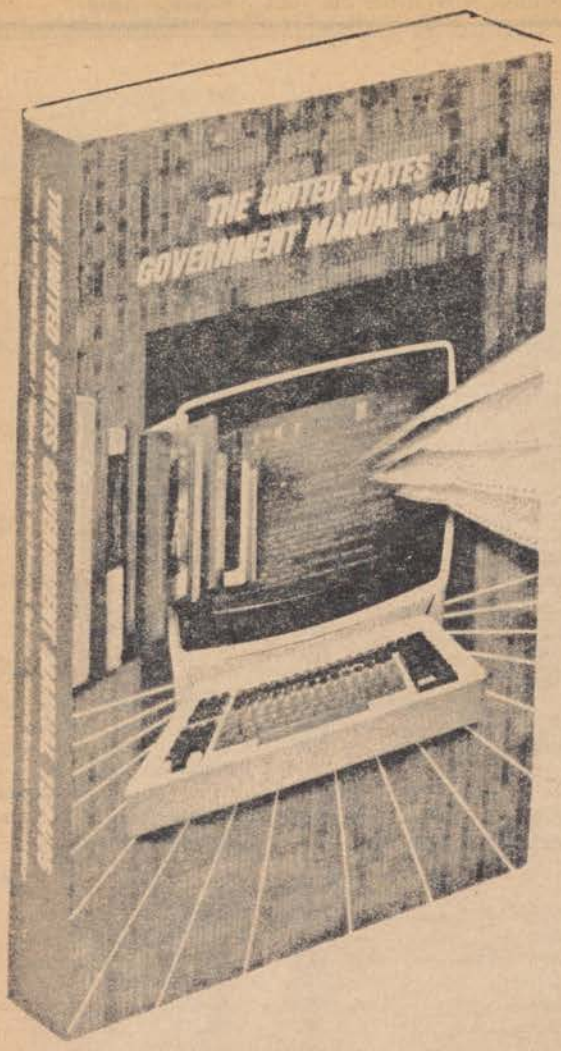

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