

# federal register

Monday  
December 2, 1985

**Briefings on How To Use the Federal Register—**

For information on briefings in Philadelphia, PA and Washington, DC, see announcement on the inside cover of this issue.

## Selected Subjects

**Animal Drugs**

Food and Drug Administration

**Aviation Safety**

Federal Aviation Administration

**Cultural Exchange Programs**

United States Information Agency

**Food Assistance Programs**

Food and Nutrition Service

**Food Grades and Standards**

Food and Drug Administration

**Flood Insurance**

Federal Emergency Management Agency

**Government Securities**

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**Hazardous Materials Transportation**

Research and Special Programs Administration

**Imports**

Animal and Plant Health Inspection Service

**Loan Programs—Agriculture**

Farmers Home Administration

**Marketing Agreements**

Agricultural Marketing Service

**Milk Marketing Orders**

Agricultural Marketing Service

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**How To Cite This Publication:** Use the volume number and the page number. Example: 50 FR 12345.

## Selected Subjects

### Natural Gas

Federal Energy Regulatory Commission

### Occupational Safety and Health

Occupational Safety and Health Administration

### Old-age, Survivors and Disability Insurance

Social Security Administration

### Pipeline Safety

Research and Special Programs Administration

### Postal Service

Postal Service

### Radio Broadcasting

Federal Communications Commission

### Radio and Television Broadcasting

Federal Communications Commission

### Reporting and Recordkeeping Requirement

Federal Communications Commission

### Utilities

Securities and Exchange Commission

### Savings and Loan Associations

Federal Home Loan Bank Board

### Surface Mining

Surface Mining Reclamation and Enforcement Office

### THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

#### PHILADELPHIA, PA

**WHEN:** Dec. 17; at 1 pm.  
Dec. 18; at 9 am. (identical session)

**WHERE:** Room 3306/10,  
William J. Green, Jr., Federal Building,  
600 Arch Street, Philadelphia, PA.

**RESERVATIONS:** Laura Lewis,  
Philadelphia Federal Information Center.  
215-597-1709

#### WASHINGTON, DC

**WHEN:** January 17; at 9 am.  
**WHERE:** Office of the Federal Register,  
First Floor Conference Room,  
1100 L Street NW., Washington, DC.

**RESERVATIONS:** Howard Landon 202-523-5227  
Melanie Williams 202-523-5229 (TDD)

**NOTE:** There will be a sign language interpreter for hearing impaired persons at the Washington, DC briefing.

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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 226

#### Child Care Food Program; Determinations of Serious Deficiencies

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** To ensure consistency among States, the Department is amending the Child Care Food Program (CCFP) regulations to specify that institutions that have been denied or terminated from the program because they have been determined to be seriously deficient in their operations in one State shall not be permitted to participate in the CCFP in any State until the serious deficiency is corrected. The Department is further specifying that the Food and Nutrition Service (FNS) may make independent determinations of serious deficiencies and require States to act upon these determinations. The rule also sets out appeal rights applicable to such situations. Finally, in the interests of clarity, this rule revises and reorganizes the existing provisions regarding seriously deficient institutions. This rule will enhance program integrity.

**EFFECTIVE DATE:** January 2, 1986.

**ADDRESS:** Copies of all written comments on the proposed rule are available for review during normal business hours at 3101 Park Center Drive, Room 509, Alexandria, Virginia 22302.

**FOR FURTHER INFORMATION CONTACT:** Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302; (703) 756-3620.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices for program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This regulation has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to the review, the Administrator of the Food and Nutrition Service has certified that this final rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this final rule have been submitted to and approved by the Office of Management and Budget (OMB) under clearance 0584-0055.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (Cite 7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985, as appropriate and any subsequent notices that may apply.)

##### Background

On May 17, 1985, the Department published a proposed rule at 48 FR 20572 to amend § 226.6(c) of the CCFP regulations to specify that institutions which have been denied or terminated from the program in one State because they have been determined to be seriously deficient shall not be permitted to participate in the CCFP in any State until the serious deficiency is corrected. The Department further proposed to specify that FNS may make independent determinations of serious deficiencies and require States to act

upon these determinations. The proposed rule also set out appeal rights applicable to such situations. The preamble to the proposed rule contained a complete discussion of the statutory background of the proposal. The preamble to the proposed rule is incorporated herein by reference.

During the official comment period, twelve commenters responded to these proposals (four from within FNS, five State agencies, one advocacy organization and one other interested party). In general, all commenters expressed approval of the proposed regulation. One commenter, however, disapproved of certain aspects of the regulation, and a few commenters raised questions about the applicability of one or another provision. The remainder of this preamble, therefore, addresses commenters' concerns on each provision.

There were no disapproving comments on the proposal that a finding of serious deficiency by one State shall be binding upon all States, although one commenter suggested that a multi-State institution might operate well in one State while still experiencing serious deficiencies in another. This commenter believes the provision may need clarification in such instances. In response to this comment, the Department emphasizes that once any State agency has reported a seriously deficient institution to the Department, as required in § 226.6(c) (1)-(11), all other States in which that institution operates must terminate the institution regardless of the way in which the institution operates in those States. The Department notes, moreover, that the situation described by the commenter is unlikely. Serious deficiencies involve managerial and/or financial irregularities which affect the organization as a whole. Consequently, even if a serious deficiency identified in one State is not immediately apparent to another, the ability of the institution to operate the program would still be undermined in all States and would likely result in significant losses if the institution's operations were not terminated in all States. Therefore, the Department does not consider that any exceptions to this provision can be authorized, and as result, further clarification is not needed.

One commenter expressly disapproved of the proposed

specification that FNS can make independent determinations of serious deficiencies regarding institutions which do not operate in more than one State and require States to act upon them. Two other commenters assumed that this provision would apply only to multi-State sponsors but expressed no opposition to other applications, and one commenter indicated that enforcement of such a provision could create fiscal difficulties for States. The Department anticipates that this provision would normally pertain to multi-State sponsors since FNS is not routinely involved in the direct oversight of other institutions, except in States in which FNS directly administers the program. However, FNS' authority to make and enforce a determination of serious deficiency is not limited only to situations involving multi-State sponsors. On the contrary, in authorizing the CCFP, Congress intended that the Department be actively involved in the program's administration and ensure that the program is carried out according to Federal law. It should also be noted that the Department's obligation to see that Federal funds are used only in the manner prescribed by Congress was recently reaffirmed strongly by the United States District Court in the case of *Quality Child Care, Inc. v. Block*, Civ. No. 3-85-7 (D. Minn. July 31, 1985) (order granting Federal Defendants' summary judgement). Thus, if the Department were to possess conclusive evidence that an institution is seriously deficient in its operation of the program and the State agency failed to act, the Department could require the institution's termination from the program. In such a situation, the Department would refuse to provide continued Federal funding for that institution.

The Department received no comments disapproving of the proposal that States notify the Department of denials and terminations within 15 days of the final action. Two commenters, however, suggested that FNS should observe a time limit in notifying other States of the institution's ineligibility for the program. The Department agrees that this information must be disseminated as quickly and efficiently as possible, and a system of notification is currently being developed by the Department. Since the details of this system may be subject to change once the procedure has been implemented, the Department does not consider this rulemaking to be the appropriate forum for discussing technical provisions. States may be assured, however, that

they will receive adequate notification as quickly as possible.

The Department also received one comment on the proposal that States take action against institutions within 15 days of being notified by the Department that the institution has been included on the list. This commenter believed that the 15 day time limit would be insufficient to enable States to complete all necessary tasks associated with the action, such as transferring day care homes to other sponsors. The Department believes that the proposed time limit would normally be sufficient, but it is recognized that a longer time limit could be needed in some cases. Therefore, the Department has adopted the commenter's recommendation that States be given 30 days in which to take action upon receipt of notification.

The Department received a number of comments on the proposal that institutions remain ineligible for the program until such time as deficiencies are corrected. While not expressing disapproval, one commenter questioned whether there should be a regulatory maximum period of disqualifications. The Department notes that section 17(a)(2)(B) of the Nation School Lunch Act extends broad authority to the Department to establish time limits for disqualifications. The Department has traditionally maintained the position that the primary purpose of disqualification actions is to ensure that Federal funds are not misspent. Consequently, the Department considers that as long as a serious deficiency remains uncorrected, the institution must not be permitted to participate in the program. On the other hand, if an institution does correct a serious deficiency, it would be unreasonable to continue to bar it from the program. This position on serious deficiencies was established in a final rule entitled "Miscellaneous Amendments", published on March 4, 1985 at 50 FR 8573. In the rule, the Department deleted the specific three-year waiting period for readmission of seriously deficient institutions, noting that most commenters on the proposed amendment approved of such a change. Since the present rulemaking is consistent with the Department's position on this issue, no change has been made to this provision.

The remaining comments on this provision merely suggested a variety of technical modifications to provide more specific guidelines for corrective action. One commenter noted that corrective action should not be permitted in cases involving fraud, while another felt that a definition of what constitutes "every

reasonable effort" to correct deficiencies is needed. A third commenter believed that certain of the serious deficiencies listed in the regulations should be clarified. The Department believes that specific guidelines in these areas are not feasible. For this reason, the regulations indicate areas where serious deficiencies can develop and note kinds of deficiencies which administering agencies should consider serious. The Department emphasizes, however, that in some situations, State agencies must exercise their judgment, and the regulations have been drafted to provide State agencies with the flexibility to act in these cases. The same is true of the requirement for corrective action. States must determine with the concurrence of FNS whether or not an institution has made a reasonable effort to correct serious deficiencies. In most cases, a reasonable effort on the part of the institution will, in fact, remove the potential for losses to the program or harm to participating children. When the institution fails to act or the actions do not result in eliminating the deficiency, the State must proceed in accordance with this regulation.

To this end, the Department wishes to emphasize that there will be limited instances of acceptable corrective action in cases involving actual fraud. If, for instance, reimbursement claims have been falsified or other records such as meal counts or attendance have been fabricated, the only reasonable corrective action would be the dismissal of all employees responsible for the fraud. In the event that an institution could not be separated from the responsible individuals, the institution must be terminated from the program and must not be readmitted.

This principle of responsibility applies equally to the proposed exception for institutions which can demonstrate that good cause exists for considering them to be distinct from seriously deficient institutions. One commenter on this provision questioned whether or not a "good cause" exception should be invoked in these situations. Other commenters, however, wished to emphasize that innocent employees should not be held accountable for serious deficiencies if they were not, in fact, responsible for the situation. The Department reiterates its position that the primary concern of this regulation is the assurance of fiscal and nutritional integrity on the part of participating institutions. The Department does not intend that individuals or institutions should be penalized for activities they were not involved in. If, for example, an

individual performs monitoring tasks for a sponsoring organization which is later determined to be seriously deficient, that person would not be barred from employment with another sponsor unless he were associated with the deficiency. By the same token, if a seriously deficient child care center were to be sold to an independent organization, the State with FNS concurrence could approve an application for readmission provided there would be no reoccurrence of the serious deficiency. The State agency must consider all such situations individually.

Finally, the Department received one comment on the proposal that an institution would have no appeal rights with respect to denial or termination actions taken by States in response to the institution's inclusion on the list of seriously deficient institutions. This commenter agreed that institutions should not be permitted to appeal the substantive determination of serious deficiency once the institution has been included on this list. This commenter believed, however, that any termination actions taken by other States against such institutions should still be subject to appeal. The Department reiterates that States will have no discretion with respect to participation by institutions included on the list of seriously deficient institutions because the institution will already have had full appeal rights in the State or Federal proceeding in which the finding of serious deficiency was made. Consequently, it would not be appropriate for actions stemming from inclusion on the list to be appealed in each individual State. The Department notes, moreover, that if institutions could appeal States' actions in these cases, the States could be placed in untenable positions. At the very least, States would be hard pressed to comply with the time restraints imposed by this regulation. Moreover, it is possible that States would have to use State funds to reimburse such an institution, since the Department would not permit the use of Federal funds after 30 days. For these reasons, the Department has made no changes to the appeal provision of the proposed regulation.

#### List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—Health, infants and children, Surplus agricultural commodities.

Accordingly, the Department is amending 7 CFR 226 as follows:

1. The authority citation for Part 226 continues to read as follows:

**Authority:** Sections 808, 810 and 820, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758, 1766); Section 2, Pub. L. 95-627, 92 Stat. 3603 (42 U.S.C. 1766); Section 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

2. In § 226.6, Introductory Paragraph (c) is amended by removing the first 4 sentences and inserting in their place 12 sentences, to read as follows:

#### § 226.6 State agency administrative responsibilities.

(c) *Denial of applications and termination of institutions.* The State agency shall not enter into an agreement with any applicant institution which the State agency determines to have been seriously deficient at any time in its operation of any Federal child nutrition program. However, the State agency may enter into an agreement with such an institution when with FNS concurrence it determines that the deficiencies have been corrected. The State agency shall terminate the program agreement with any institution which it determines to be seriously deficient. However, the State agency shall afford an institution every reasonable opportunity to correct problems before terminating the institution for being seriously deficient. The State agency shall notify FNS whenever it has denied an application from or terminated the participation of a seriously deficient institution. This notification shall be made within 15 days of the review official's decision upholding the State's action or, if the institution elects not to appeal the decision, within 15 days of the expiration of the appeal right. FNS will maintain a list of these institutions and will notify all other State agencies of these institutions' ineligibility to participate in the program. FNS may determine independently that an institution has been seriously deficient in its operation of any Federal child nutrition program and include such institution on the list of ineligible institutions if appropriate corrective action is not taken. State agencies shall not enter into an agreement with any institution included on this list of ineligible institutions and shall terminate any participating institution included on the list within 30 days of the receipt of notification by FNS of the institution's ineligible status. Once included on this list, an institution shall be ineligible to participate in the program until such time as FNS, in consultation with the appropriate State agency, determines that the serious deficiency which resulted in the ineligible status has been corrected. Any

institution which is identifiable with a seriously deficient institution through its corporate organization, officers, employees, or otherwise shall also be considered to be ineligible unless it is demonstrated to the satisfaction of the State agency, with FNS concurrence, that good cause exists for considering the institution distinct from the seriously deficient institution. Denial or termination actions taken on the basis of FNS notification of ineligible status shall not be subject to administrative review as provided in § 226.6(j). However, an institution which FNS has determined to be seriously deficient and which has not taken acceptable corrective action may request an administrative review of this determination by an FNS review official in accordance with the appeal procedures set forth in § 226.6(f) and will not be included on the list of ineligible institutions unless FNS' determination is upheld by the review official.

Dated: November 25, 1985.

Robert E. Leard,  
Administrator, Food and Nutrition Service.  
[FR Doc. 85-28607 Filed 11-29-85; 8:45 am]  
BILLING CODE 3410-30-M

#### Agricultural Marketing Service

##### 7 CFR Part 907

[Navel Orange Regs. 615 and 616]

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

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rules.

**SUMMARY:** Regulations 615 and 616 establish the quantity of fresh California-Arizona navel oranges that may be shipped to market during the periods November 29-December 5, and December 6-12, 1985. Such actions are needed to provide for the orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

**DATE:** Regulation 615 (§ 907.915) becomes effective for the period November 29-December 5, 1985. Regulation 616 (§ 907.916) is effective for the period December 6-12, 1985.

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

**SUPPLEMENTARY INFORMATION:** These rules have been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and have been designated a "non-major" rule. The Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These regulations are issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These actions are based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

These actions are consistent with the marketing policy for 1985-86 adopted by the Navel Orange Administration Committee. The committee met publicly on November 26, 1985, at Exeter, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports that the market for fresh navel oranges has become more firm. The prorate regulations are needed to continue providing stability in the market and promote orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective dates until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these regulations are based and the effective dates necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

#### List of Subjects in 7 CFR Part 907

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

#### PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 907.915 is added to read as follows:

#### § 907.915 Navel Orange Regulation 615.

The quantities of navel oranges grown in California and Arizona which may be handled during the period November 29, 1985, through December 5, 1985, are established as follows:

- (a) District 1: 2,100,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

3. Section 907.916 is hereby added to read:

#### § 907.916 Navel Orange Regulation 616.

The quantities of navel oranges grown in California and Arizona which may be handled during the period December 6, 1985, through December 12, 1985, are established as follows:

- (a) District 1: 1,700,000 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: Unlimited cartons;
- (d) District 4: Unlimited cartons.

Dated: November 27, 1985.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc. 85-28731, Filed 11-27-85; 4:54 pm]

BILLING CODE 3410-02-M

### Animal and Plant Health Inspection Service

#### 9 CFR Part 92

[Docket No. 85-114]

#### Specifically Approved States Authorized To Receive Mares Imported From CEM-Affected Countries

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This document adds Maryland and Ohio to the list of approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, has determined that Maryland and Ohio have laws or regulations in effect to require the additional inspection, treatment, and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action is necessary in order to avoid the imposition of unnecessary restrictions on importers of mares from countries affected with CEM.

**DATES:** *Effective date:* December 2, 1985. Written comments must be received on or before January 31, 1986.

**ADDRESSES:** 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. Comments should state that they are in response to Docket Number 85-114. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. Allan A. Furr, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain mares and stallions over 731 days of age into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment, and testing.

Mares and stallions over 731 days of age must be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards necessary to ensure that such mares and stallions being imported into the United States are free of the contagion of CEM. These minimum standards, which concern treatment, testing, and handling of the horses, are set forth in § 92.4(a)(6) of the regulations for stallions and in § 92.4(a)(9) of the regulations for mares.

Maryland and Ohio, among other States, are already approved to receive such stallions over 731 days imported into the United States from countries affected with CEM. It has been determined that Maryland and Ohio also meet the requirements of § 92.4(a)(9) of the regulations for mares. Therefore, this document adds Maryland and Ohio to the list of those States approved to receive certain mares over 731 days of age imported into the United States from countries affected with CEM.

**Executive Order 12291 and Regulatory Flexibility Act**

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no 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 action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that fewer than 26 mares from countries affected with CEM will be imported into the States of Maryland and Ohio annually. This compares with approximately 3,340 stallions and mares (most of these were mares) imported into the United States from countries affected with CEM during Fiscal Year 1984 and with approximately 36,000 horses of all classes imported into the United States during that same period.

Under these circumstances, 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.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

**Emergency Action**

Dr. John K. Atwell, Deputy Administrator for Veterinary Services, has determined that an emergency situation exists that warrants publication without prior opportunity for a public comment period. This amendment relieves unnecessary restrictions presently imposed on mares over 731 days of age from countries affected with CEM and bound for Maryland and Ohio, and should be made effective immediately in order to allow affected persons to move these horses into Maryland and Ohio.

Otherwise, these horses would be allowed to be imported only to other States which have been approved to receive mares from countries affected with CEM. Allowing mares destined for Maryland and Ohio to move directly to those States from the U.S. port of entry should result in a decrease of costs for importing such horses.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, 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 less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document and a document discussing comments received and any changes required will be published in the Federal Register.

**List of Subjects in 9 CFR Part 92**

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

**PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON**

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 92 continues to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.4, paragraph (a)(8)(ii) is revised to read:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds and for animal specimens for diagnostic purposes; and reservation fees for space at quarantine facilities maintained by Veterinary Services.

(a) \* \* \*

(8) \* \* \*

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of California.  
The State of Colorado.  
The State of Kentucky.  
The State of Louisiana.  
The State of Maryland.  
The State of New York.  
The State of Ohio.

The State of South Carolina.  
The State of Tennessee.  
The State of Virginia.  
The State of Wisconsin.

\* \* \*

Done at Washington, D.C., this 22nd day of November 1985.

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-28459 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-34-M

**FEDERAL HOME LOAN BANK BOARD****12 CFR Part 563**

[Res. No. 85-1004]

**Criminal Referrals and Other Reports or Statements**

Dated: November 8, 1985.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), has codified its expectation that institutions whose accounts are insured by the FSLIC ("insured institutions") and their service corporations will report crimes, suspected crimes and unexplained losses to the appropriate law enforcement authorities. The regulation also prohibits the making of any statement that is known to be false or misleading or known to omit any material fact within the Board's jurisdiction, as well as prohibiting the making of such a statement to an auditor of an insured institution concerning its affairs. Furthermore, the regulation requires that an insured institution must file a notice and proof of loss concerning any covered losses that are greater than twice the deductible amount specified in its fidelity bond, pursuant to the procedures provided by the bond.

**EFFECTIVE DATE:** January 2, 1986.

**ADDRESS:** Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

**FOR FURTHER INFORMATION CONTACT:** John Downing, Attorney (202) 377-6434, or Rosemary Stewart, Associate General Counsel (202) 377-6437, Office of General Counsel, Federal Home Loan Bank Board, at the above address.

**SUPPLEMENTARY INFORMATION:** On June 10, 1985, the Board proposed to revise § 563.18 of the regulations of the FSLIC (12 CFR 563.18) to formalize its expectation that insured institutions

report crimes, suspected crimes, and unexplained losses they suffer to the appropriate law enforcement authorities. As proposed, the regulation requires that each insured institution make a written report to the local United States Attorney concerning known or suspected crimes and unexplained losses involving that institution, and also report crimes against other financial institutions thought to be committed by persons associated with the insured institution. The proposal was an outgrowth of an agreement between the federal financial institution regulatory agencies and the Department of Justice ("Department"), and was designed to bring criminal matters to the Department's attention earlier and to provide that agency with specific information needed to determine whether investigation and/or prosecution is warranted. In addition, it was intended to provide a data base for monitoring the types and extent of crimes against insured institutions.

The proposed regulation also prohibited the making of a false or misleading statement or an omission to state a material fact concerning a matter within the Board's jurisdiction. Furthermore, it required that an insured institution promptly file a notice of proof of loss with its fidelity bond company concerning any covered loss; the intent of that requirement was to increase the chance of recovery under the bond and contribute to the financial safety and soundness of the insured institution.

After a review of the public comments submitted in response to the proposal and upon further consideration and analysis, the Board has adopted the regulation substantially as proposed, with the modifications discussed below.

In addition, to facilitate referral, the Board has revised its Criminal Referral Form, FHLBB Form 366, to contain the specific items required by the regulation. A copy of FHLBB Form 366 is attached to this document as Appendix A.

#### Discussion of Comment Letters

The Board received 51 comments on the proposed rule: 32 from federally chartered institutions, 11 from state-chartered institutions, and eight from thrift trade groups. Nearly all commenters requested some change or clarification in the proposed regulation. The most frequently received comments requested clarification of what is meant by "suspected crimes" and "unexplained losses," and recommended that reports not be required unless the losses resulting from crimes, suspected crimes, or unexplained losses exceed some minimal amount. In addition, several

commenters expressed concern about whether making reports of crimes or suspected crimes would expose them to civil suits for defamation. Other commenters questioned the proposed reporting mechanism, e.g., recommending that state authorities be involved. Concerning the proposed requirement that institutions promptly report losses to their fidelity bond companies, the comment was made several times that institutions reporting many suspected small losses to bonding companies might risk cancellation of their policies. In addition, many of those addressing the proposed prohibition of false or misleading statements or omissions requested that the Board limit the proposal to statements or omissions that are intentionally false or misleading.

#### Events Triggering The Criminal-Referral Requirement

Numerous commenters requested clarification of what constitutes a crime, suspected crime, or unexplained loss. Commenters stated that institution personnel were not capable of determining when a crime has occurred, that the requirement that suspected crimes be reported could be used to injure people's reputations, without basis, and that most unexplained losses are routine, non-criminal problems such as teller outages and should not be reported for law enforcement purposes. Many commenters stated that there should be an estimated dollar loss limit on crimes, suspected crimes, or unexplained losses which require filing of a report; and suggested minimums ranged from \$250 to \$10,000. Several commenters observed that their local offices of the Federal Bureau of Investigation ("FBI") have a policy of investigating crimes against financial institutions only if they exceed a minimum loss amount. Others added that reporting crimes involving small losses would be a major burden, in some cases requiring reports on a daily basis.

The Board notes that persons filling out the criminal referral form are not expected to conclude that the matters referred will result in a criminal prosecution or conviction. This determination will be left to the appropriate law enforcement authorities. However, it is necessary that the institution have a know factual basis for the referral, i.e., an awareness of verifiable circumstances that suggest that a crime was committed. Mere suspicion of an individual's criminal involvement based on behavior unrelated to the suspected crime would not be sufficient to justify naming him as a suspect, although a crime or suspected

crime should still be referred even if the individual responsible for it cannot be identified.

Regarding the uncertainty concerning what constitutes a crime against a financial institution, the Board has provided in the instructions to its revised Form 366 a listing and description of the most common federal crimes involving financial institutions, their personnel, or their customers. Given such a list, personnel of the insured institution should be able to determine in nearly all cases whether a criminal referral must be made.

The Board agrees that clarification of when a "suspected crime" should be reported is appropriate. The proposed rule has been amended to specify that suspected crimes are to be reported when there is a known factual basis for the belief that a crime has been committed. Adhering to this standard also will provide protection against suits for defamation because of the well-recognized privilege to give information to proper authorities for the protection or detection of crime, provided that the privilege is not abused by making reports without a reasonable basis. W. Prosser, *Law of Torts* section 115 (4th ed. 1971).

On commenter asked that the final rule not require reports for routine unexplained losses such as teller outages. Although it recognizes that teller outages frequently occur without a criminal act being committed, the Board does not believe such routine unexplained losses should be excluded entirely from the reporting requirement. Instead, the final rule has been revised to require reporting only for unexplained losses that there is reason to believe have been caused by a criminal act. This revision will avoid burdening insured institutions unnecessarily.

With regard to the suggestion of dollar limits on reporting of estimated losses, the Board has no desire to place a reporting burden on insured institutions unless it furthers the goal of crime detection and prevention. Based on the information received, it is clear that many local law enforcement officials have elected to concentrate their scarce time and resources on crimes that involve substantial losses. The Board has therefore determined not to require insured institutions to make reports of crimes, suspected crimes, or unexplained losses not involving affiliated persons unless the known or anticipated loss exceeds \$1,000. However, the Board also wishes to make clear that nothing in the regulation prevent referral of any crime or limits the duty imposed by federal criminal

law (18 U.S.C. section 4) to report felonies.

Several commenters suggested that insured institutions should be given discretion not to refer criminal matters where restitution has been made. However, the Board has concluded that any criminal matter involving more than \$1,000 is of sufficient significance that it must be reported whether or not there has been restitution.

#### Making Criminal Referrals and Reports to the Board of Directors

Several commenters argued that requiring reports within 14 business days of discovery of the violations allows too little time to investigate and make a criminal referral. The Board believes that prompt referral is essential to the efforts of the FBI and federal or state prosecutors to investigate and prosecute crimes in the thrift industry and that the types of information required ordinarily can be assembled within 14 business days. Insured institutions are reminded that they are not obligated or expected to make a conclusive determination that a crime has occurred or that further investigation or prosecution is warranted, but only to present basic information to trained law enforcement personnel who will make that determination following their own investigation and/or consideration of the facts.

A number of commenters noted that they had a well-established working relationship with state law enforcement authorities and preferred to continue making criminal referrals to the state. Referral to state authorities is permitted whenever a state law has been violated. Referral should be made as well to the FBI and the United States Attorney when federal crimes have been committed. Federal authorities also should be advised of the referral to the state. However, referral to state authorities in lieu of federal authorities will not be regarded as a violation of the Board's regulation when (1) the local office of the FBI or the local United States Attorney has a stated policy of not prosecuting crimes of the types or with the amount of losses involved; and (2) the insured institution has been assured that the state authorities will investigate the matter. Whether the reports are made to state or federal law enforcement authorities, copies should still be sent to appropriate Board and Federal Home Loan Bank personnel as set out on the Form 366.

One commenter observed that the proposed requirement that the board of directors be notified by the chief executive officer at its next meeting did

not provide for notification when the chief executive officer is suspected of involvement in the crime, suspected crime or unexplained loss. The Board agrees and has adopted a requirement that a senior vice president of the institution notify the Board in that situation. Another commenter suggested that only the Audit Committee of the board of directors be notified, and that this be done on a quarterly basis. The Board believes, however, that awareness of criminal acts is of sufficient importance to require each director's attention as soon as reasonably possible. Notification need not be time-consuming; it requires no more than a recitation, written or oral, of the basic facts known, with the reports themselves being available for inspection by the board members. The Board has, however, made clear that the report to the directors is required to be made at the next meeting of the board of directors after the report to the law enforcement authorities has been filed.

#### Service Corporations

Two commenters questioned whether the proposed criminal-referral requirement would apply to crimes against service corporations. Clearly, a crime against a service corporation affects any insured institution that has an ownership interest in it. Thus, in *United States v. Cartwright*, 832 F.2d 1290, 1292 (5th Cir. 1980), the court found that where the assets of an insured institution's wholly owned subsidiary were misapplied, it directly diminished the assets of the parent, and thus amounted to a misapplication of funds "belonging to" the institution. The Board has therefore clarified the reporting provision by specifically referencing service corporation referrals of crimes against them. In the case of a crime against a wholly-owned service corporation, the referral may be made by either the service corporation or the insured institution.

In addition, the Board urges that savings and loan holding companies make referrals of crimes against them when these crimes have a substantial impact on the insured institutions they own.

#### Items To Be Reported

In order to shorten and simplify the regulation, and to avoid redundancy between the regulation and revised FHLBB Form 366, the Board has decided to eliminate the listing of items to be reported that was contained in the proposed rule. The final regulation requires that the form itself be filed. Similarly, the regulation does not specify to whom reports must be made

because that information is provided in the instructions to Form 366.

A number of comments were received concerning the items to be reported, which are now listed on Form 366, and the Board wishes to clarify its expectations in this regard. One commenter suggested that the requirement for identification of the person discovering the crime, suspected crime or unexplained loss will prevent employees wishing to remain anonymous from reporting possible crimes to management. While it is important to the successful investigation and prosecution of crimes that the identities of those with knowledge of the facts be provided, if information is presented to management anonymously, management should indicate that fact on the referral form. Another commenter asked for clarification of the term "confession," the occurrence of which must be indicated on the criminal referral form. As specified in the instructions to revised Form 366, a confession is not limited to confessions made to law enforcement personnel, but includes any type of admission made to the institution's personnel or to others about one's responsibility for the act(s) described in the referral.

Two commenters asked for clarification of the impact of the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3401-3422, on the reporting requirements. In the opinion of the Board, the RFPA does not restrict the information expected to be contained in the reports that will be submitted pursuant to this rule. Section 1102(c) of the RFPA, 12 U.S.C. 3403(c), states that nothing in that act precludes a financial institution "from notifying a Government authority that such institution . . . has information which may be relevant to a possible violation of any statute or regulation." The legislative history of the RFPA indicates that under this provision "a bank could, and should, report to appropriate officials information pertaining to the cashing of a forged check, the passing of counterfeit currency or bonds, or the use of its services to facilitate a fraudulent scheme." H.R. Rep. No. 1383, 95th Cong., 2d. Sess. 218 (1978). Moreover, section 1113(d), 12 U.S.C. 3413(d), states that nothing in the RFPA authorizes withholding "information required to be reported in accordance with any Federal statute or rule promulgated thereunder." See H.R. Rep. No. 1383, *supra* at 226, specifically stating that Congress intended this provision to apply to rules promulgated under the National Housing Act. Because the RFPA encourages notification of law enforcement

authorities and provides for exceptions from its requirements for reports required under the National Housing Act, the reports made pursuant to this regulation are in compliance with the RFPA.

#### False or Misleading Statements or Omissions

Eight commenters suggested that the prohibition of false or misleading statements or omissions should be limited to statements or omissions that are intentionally or knowingly false or misleading. Upon consideration of the comments the Board has determined to limit the prohibition to false or misleading statements that are knowingly made.

In addition, the Board has clarified the proposed regulation by specifying that the prohibitions against false or misleading statements also are applicable to persons filing applications with the Board or the FSLIC such as applications for insurance of accounts or notices of change in control.

#### Fidelity Bond Claims

Six commenters opposed the proposed requirement that an insured institution promptly notify its fidelity bond company and file a proof of loss concerning all covered losses pursuant to the procedures provided by its fidelity bond. They argued that filing numerous claims to report small losses would risk cancellation of insurance or substantial premium increases. Three of these commenters urged specification of some minimum amount of loss below which notification and filing would not be required, suggesting limits of double the deductible amount, a percentage of the institution's net worth, or \$100,000. The Board finds this argument to be persuasive, and has determined to limit the requirement to losses greater than twice the deductible amount stated in the bond; this limit appears to be the most appropriate because the deductible amount most nearly represents the loss that an institution has concluded it can safely bear. By requiring notification and filing only when there are covered losses of twice the deductible amount, the Board has balanced the need for safety and soundness with the institution's desire to preserve its existing fidelity bond agreements. Notwithstanding this change, however, the Board wishes to stress that nothing in this regulation prevents an insured institution from reporting any covered loss to the fidelity bond company.

The Board has also clarified the regulation by providing that it applies to the bonds required by § 563.19 of the Insurance Regulations.

#### Final Regulatory Flexibility Analysis

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

1. *Reasons, objectives, and legal basis underlying the rule.* These elements are incorporated above in **SUPPLEMENTARY INFORMATION** regarding the rule.

2. *Small entities to which the rule would apply.* The rule would apply to all institutions the accounts of which are insured by the FSLIC.

3. *Impact of the rule on small institutions.* The rule would require reports of possible criminal violations by institutions, would prohibit false or misleading statements or material omissions by persons associated with insured institutions, and would require notices and proofs of loss to be filed with fidelity bond companies without regard to the institution's asset size.

4. *Overlapping or conflicting federal rules.* There are not known federal rules that duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rule.* The rule is designed to codify the Board's expectation that insured institutions report criminal matters to law enforcement authorities, that notices and proofs of loss are filed as required by fidelity bonds, and that communications to the Board and to an institution's auditor are not false or misleading. The Board has minimized the reporting burden by not requiring reports when losses are \$1,000 or less and no affiliated person is involved. In addition, the Board has reduced the number of reporting elements in reports of crimes involving smaller losses and not involving affiliated persons, by generally including only those elements of information that would be essential to law enforcement efforts. Furthermore, the Board has limited the requirement for filing a notice and proof of loss to instances when the loss to the institution is twice the deductible in its fidelity bond, and has limited the prohibition of false or misleading statements to those that are knowingly made. There are no alternatives that would result in fewer restrictions on small institutions and still accomplish the purpose of the rule.

#### List of Subjects in 12 CFR Part 563

Savings and loan associations.

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

#### SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

#### PART 563—OPERATIONS

1. The authority for 12 CFR Part 563 continues to read:

Authority: Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730), 1947 Reorg. Plan No. 3, 12 FR 4981, 3 CFR 1071 (1943-48 Comp.).

2. Revise § 563.18, as follows:

#### § 563.18 Criminal referrals and other reports or statements.

(a) *Periodic reports.* Each insured institution and service corporation thereof shall make such periodic or other reports of its affairs in such manner and on such forms as the Corporation may prescribe. The Corporation may provide that reports filed by insured institutions or service corporations to meet the requirements of other regulations also satisfy requirements imposed under this section.

(b) *False or misleading statements or omissions.* No insured institution or director, officer, agent, employee, affiliated person, or other person participating in the conduct of the affairs of such institution nor any person filing or seeking approval of any application shall knowingly (1) make any written or oral statement to the Board, the Corporation, or an agent, representative or employee of either of them that is false or misleading with respect to any material fact or omits to state a material fact concerning any matter within the jurisdiction of the Board or Corporation; or (2) make any such statement or omission to a person or organization auditing an insured institution or otherwise preparing or reviewing its financial statements concerning the accounts, assets, management condition, ownership, safety, or soundness, or other affairs of the institution.

(c) *Notifications of loss and reports of increase in deductible amount of bond.* An insured institution maintaining bond coverage as required by § 563.19 of this Subchapter shall promptly notify its bond company and file a proof of loss under the procedures provided by its bond, concerning any covered losses greater than twice the deductible amount. Whenever a deductible amount specified in a bond is increased above the permissible deductible amount specified in the table in § 563.19(b) of this Subchapter, the affected insured institution or service corporation shall report promptly the facts concerning such increase in writing to the Director



of Examinations of the Federal Home Loan Bank of which the institution is a member.

(d) *Reports of crimes, suspected crimes, and unexplained losses.*—(1) *Purpose and scope.* Insured institutions and service corporations are required to promptly notify the appropriate law enforcement authorities and the Corporation after discovery of known or suspected criminal acts involving affiliated persons or actual or anticipated losses of more than \$1,000. This paragraph (d)(1) applies to known or suspected crimes against insured institutions and service corporations both by their employees and by others, and to crimes or suspected crimes against another financial institution believed to be committed by a person associated with the reporting insured institution or a service corporation. As used in this paragraph the phrase "suspected crimes" refers to all matters, including unexplained losses, for which there is a known factual basis for a belief that a crime has been or may have been committed. In the case of a crime or suspected crime against a service corporation that is wholly owned by an insured institution, either the service corporation or the insured institution may make the report.

(2) *Filing of Reports.* Except as permitted under paragraph (d)(3) of this section, an insured institution or a service corporation shall notify the appropriate law enforcement authorities and the Corporation by filing FHLBB Form 366 within 14 business days after discovery of any crime, suspected crime, or unexplained loss suffered by the insured institution or service corporation, including any:

- (i) Theft, robbery, embezzlement, check-kiting operation, fraud or attempted fraud, unexplained loss, or other known or suspected misapplication of funds or other things of value belonging to an insured institution or entrusted to its care;
- (ii) Requests for, receipt of, or agreement to receive bribes in connection with any transaction or business of such an institution;
- (iii) False statements or reports or overvaluation of land, property or security, or omission to state or attempt to conceal information for the purpose of influencing the actions of an insured institution, the Corporation or the Board; or
- (iv) Other violations of statutes, as described Form 366.

(3) *Oral Reports.* Reports may be made orally in emergency cases, such as when it is likely that evidence or witnesses will become unavailable before a written report can be made; or

where other circumstances dictate an immediate referral. In such cases, the report shall be documented by later completion and filing of the prescribed form(s).

(4) *Notification of the Board of Directors.* The chief executive officer of the insured institution or his designee shall notify the board of directors concerning any report filed pursuant to this paragraph by the institution or a service corporation in which it has an ownership interest not later than its next regularly scheduled meeting following the filing of the report. If the chief executive officer is suspected of being involved in the violation, a senior vice president shall notify the institution's Board.

(5) *Maintenance of Records.* Reports made under this section and related records of all crimes or suspected crimes shall be maintained at the insured institution's home office for three years.

By the Federal Home Loan Bank Board.  
**Jeff Sconyers,**  
*Secretary.*  
 [FR Doc. 85-28557 Filed 11-29-85; 8:45 am]  
 BILLING CODE 6720-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 85-CE-34-AD; Amdt. 39-5175]

#### Airworthiness Directives; Cessna Model 172RG Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), AD 85-20-01, applicable to Cessna Model 172RG airplanes and codifies the corresponding emergency AD letter dated September 27, 1985, into the Federal Register. This AD requires disabling the cabin heat control prior to further flight and inspection of the muffler core. The AD is necessary because the possibility exists that one or more holes may have been inadvertently drilled through the muffler in the area of the muffler shroud assembly end plates. This could allow carbon monoxide to enter the cabin and disable the pilot. **DATES:** Effective date: December 5, 1985, to all persons except those to whom it has already been made effective by priority letter from the FAA dated September 27, 1985.

**Compliance:** As prescribed in the body of the AD.

**ADDRESSES:** Cessna Single Engine Service Bulletin SEB85-17, dated September 27, 1985, applicable to this AD may be obtained from Cessna Aircraft Company Customer Services, P.O. Box 1521, Wichita, Kansas, 67201. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 801 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles D. Riddle, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

**SUPPLEMENTARY INFORMATION:** This AD, applicable to certain Cessna Model 172RG airplanes, is necessary because a possibility exists that one or more holes may have been inadvertently drilled through the muffler in the area of the muffler shroud assembly end plates. This could allow carbon monoxide to enter the cabin and disable the pilot. This AD requires disabling the cabin heat control prior to further flight and inspection of the muffler core.

Cessna has developed Single Engine Service Bulletin SEB85-17 dated September 27, 1985, which covers the subject of this AD.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated September 27, 1985. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 85-20-01. Since the unsafe condition described herein may still exist on other Cessna Model 172RG airplanes, the AD is hereby published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the priority letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### Adoption of the Amendment

#### PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

**Cessna:** Applies to Model 172RG (Serial Numbers 172RG1135 thru 172RG1187) airplanes certificated in any category.

**Compliance:** Required as indicated, unless already accomplished.

To reduce the possibility of carbon monoxide contamination entering the cabin area, accomplish the following:

(a) Prior to further flight:

(1) Deactivate the cabin heat system by removing the cabin heat control cable from the control arm on the cabin heat valve located on the firewall at the right upper side of the engine compartment. Ensure that the valve spring mechanism is functioning and that the cabin heat valve is spring loaded to the closed position or safety wire the valve to the closed position.

(2) Fabricate and install on the instrument panel visible to the pilot the following placard using letters of a minimum 0.10 inch in height: "DO NOT USE CABIN HEAT", and operate the airplane accordingly.

(b) Within 25 hours time-in-service after the effective date of this AD, remove the muffler shroud and visually inspect the muffler core for damage as a result of drilling the holes through the end plate or improper

length attachment screws and if damaged replace the muffler core prior to further flight.

(c) The requirements of paragraph (a) of this AD are no longer required when paragraph (b) of this AD has been accomplished.

(d) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished, providing cabin heat is not used during the flight.

(e) An equivalent method of compliance may be used when approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(f) Report, in writing, all defects found to the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209, within 10 days of the inspection required by paragraph (b) of this AD (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056).

This amendment becomes effective on December 5, 1985, to all persons except those to whom it has already been made effective by priority letter from the FAA dated September 27, 1985, and is identified as AD 85-20-01.

Issued in Kansas City, Missouri, on November 20, 1985.

**Jerold M. Chavkin,**

*Acting Director, Central Region.*

[FR Doc. 85-26490 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 85-CE-20-AD; Amdt. 39-5125]

#### Airworthiness Directives; Cessna Models U206F, U206G, TU206F, TU206G, 207, T207, 207A, and T207A Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction of final rule.

**SUMMARY:** This action further corrects Airworthiness Directive (AD) 85-17-07, Amendment 39-5125 (50 FR 34450), applicable to Cessna Models U206F, U206G, TU206F, TU206G, 207, T207, 207A, and T207A airplanes. This additional correction is necessary because an error was made in the citation of the amendment when a correction was published in the *Federal Register* on October 18, 1985.

**EFFECTIVE DATE:** December 4, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Douglas W. Haig, Aerospace Engineer, FAA, ACE-120W, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946-4409.

**SUPPLEMENTARY INFORMATION:** Subsequent to the correction of AD 85-

17-07, Amendment 39-5125, applicable to Cessna Models U206F, U206G, TU206F, TU206G, 207, T207, 207A, and T207A airplanes, the FAA found that an error had been made in the *Federal Register* citation of the Amendment of the AD when the correction was published in the *Federal Register* on October 18, 1985. Therefore, action is taken herein to rectify this mistake. Since this action is required to ensure that the correct citation of the amendment is accurately referred to in the AD as corrected, notice and procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By restating the following sentence appearing in the *Federal Register* correction of October 18, 1985, to now read: "In FR Doc. 85-14527 (50 FR 34450), appearing in the *Federal Register* of June 18, 1985, make the following correction:"

Issued in Kansas City, Missouri, on November 19, 1985.

**Jerold M. Chavkin,**

*Acting Director, Central Region.*

[FR Doc. 85-28491 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 85-CE-33-AD; Amdt. 39-5174]

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (Embraer) Models EMB-110P1 and EMB-110P2 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), AD 85-18-51 applicable to Embraer Models EMB-110P1 and EMB-110P2 airplanes and codifies the corresponding telegraphic AD dated September 12, 1985, into the *Federal Register*. This AD requires inhibiting operation of both the Bendix Electric Trim System and the Bendix Autopilot System (if installed) by disconnection from the power source. The AD is prompted by a recent runaway trim incident on an EMB-110

Model airplane which, if left uncorrected, could result in controllability problems.

**DATES:** *Effective date:* December 5, 1985, to all persons except those to whom it has already been made effective by telegraphic AD from the FAA dated September 12, 1985.

*Compliance:* As prescribed in the body of the AD.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Sconyers, ACE-130A, Atlanta Aircraft Certification Office, Central Region, Federal Aviation Administration, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7781.

**SUPPLEMENTARY INFORMATION:** The FAA issued telegraphic AD No. T85-18-51, dated September 12, 1985, because of a recent runway trim incident on an Embraer Model EMB-110 airplane. Investigation revealed that the trim switch would not return to the neutral position after activation and an abnormally high reported failure rate of this switch. This malfunction and high failure rate constitutes a potential risk for runaway trim and resultant controllability problems. The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplane affected by this telegraphic AD dated September 12, 1985. The AD became effective immediately as to these individuals upon receipt of that telegram and is identified as T85-18-51. Since the unsafe condition described therein may still exist on other Embraer Models EMB-110P1 and EMB-110P2 airplanes, the AD is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the telegraphic notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### Adoption of the Amendment

#### PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

**Empresa Brasileira de Aeronautica S.A. (Embraer):** Applies to Models EMB-110P1 and EMB-110P2 (all serial numbers) airplanes certificated in any category.

**Compliance:** Required within the next 10 hours time in service after the effective date of this AD, unless already accomplished. To prevent failure of the Bendix electric trim switch resulting in a runaway trim condition, accomplish the following:

(a) Disconnect the electric power source to the Bendix trim servo by disconnecting the trim servo plug located in the aft fuselage section. Cap, protect, and secure the plug.

(b) Fabricate and install on the instrument panel visible to both pilots the following placard using letters of a minimum of 0.10 inch in height: "ELECTRIC TRIM SYSTEM INOPERATIVE PER AD T85-18-51".

(c) Insure that the manual trim system is operational in accordance with the appropriate maintenance manual.

(d) If a Bendix Automatic Pilot is installed, disconnect the automatic pilot system from the electric power source and install in full view of both pilots the following placard using letters of a minimum of 0.10 inch in height: "AUTOPILOT INOPERATIVE PER AD T85-18-51".

(e) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished, provided the circuit breakers for the electric trim system, and if applicable, for the automatic pilot system are

pulled and the manual trim system is operational.

(f) An equivalent method of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, Central Region, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7428.

This amendment becomes effective December 5, 1985, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T85-18-51, issued September 12, 1985, which contained this amendment.

Issued in Kansas City, Missouri on November 20, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-28488 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 85-CE-25-AD; Amdt. 39-5173]

**Airworthiness Directives; Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 airplanes which requires inspection of the fuel tanks and fuel filler cap assemblies. Water can be trapped in the fuel bays due to improper fuel tank sealant application and the fuel filler cap assemblies can have improper sealing characteristics allowing water leakage into the wing fuel tanks. These inspections and modification of the tanks will preclude fuel contamination which could be detrimental to satisfactory engine operation.

**DATES:** *Effective date,* January 6, 1986.

*Compliance:* As prescribed in the body of the AD.

**ADDRESSES:** Mooney Aircraft Corporation Service Bulletins (S/Bs) M20-229 and M20-230 both dated April 10, 1985, applicable to this AD may be obtained from Mooney Aircraft Corporation, Post Office Box 72, Kerrville, Texas 78028-0072. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Mr. Billy R. Parker, Airplane Certification Branch, ASW-150, Federal

Aviation Administration, P.O. Box 1689, Fort Worth, Texas; Telephone (817) 877-2449.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of fuel tanks and fuel filler cap assemblies on Mooney Aircraft Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 airplanes was published in the Federal Register on July 23, 1985 (50 FR 29988). The proposal was prompted by field service difficulty reports on certain Mooney Models M20 and M22 airplanes which indicated that deterioration of fuel tank filler cap seals (O-rings) had allowed leakage of water into the wing fuel tanks and that improper fuel tank sealant application resulted in water being entrapped between wing fuel bay ribs. There have been a number of accidents and incidents in which water in the fuel was determined to be a causal factor. Prior to an FAA audit conducted last year, the manufacturer did not have detailed tank sealing requirements for production airplanes which identified critical rib drain holes within the fuel tanks that must be open after tank sealing, nor were there any manufacturer's service instruction available for resealing of fuel tanks after field modifications. The combination of water entering the wing fuel tanks through fuel filler ports and the entrapment of such water and/or other contaminants in the fuel tanks could result in engine fuel supply contamination when airplanes are maneuvered in certain ways. The applicable service or maintenance manuals did not require inspection of fuel tank sealing applications or fuel filler cap assemblies nor had any service bulletins been issued regarding required inspections of the subject fuel tanks and fuel filler caps. The National Transportation Safety Board (NTSB) recommended to the FAA that an AD be issued to: (1) Inspect fuel tank filler cap assemblies for deterioration of sealing components to assure proper sealing and (2) require necessary action to eliminate the potential for water entrapment in the fuel tanks. In addition, the NTSB recommended that the manufacturer be required to generate a service bulletin concerning the inspection and maintenance of the fuel tank filler cap assemblies and distribute instructions to the field for modification of certain existing Mooney airplanes that may have water traps in the fuel tanks caused by improper sealing at the factory or in-service. Mooney Aircraft Corporation has issued the following: (1) Service Bulletin S/B M20-229, dated

April 10, 1985, describing inspection and maintenance procedures which will restore and ensure continued sealing capability of the fuel tank filler cap assemblies, and (2) Service Bulletin S/B M20-230, dated April 10, 1985, requiring the inspection of fuel tank sealing application to ensure all required wing rib fuel drain holes are open to prevent water entrapment.

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

Two commenters agreed that the proposed inspection requirements be implemented as proposed. A third commenter recommended that the requirement for the proposed 100-hour time-in-service (TIS) repetitive inspection of the fuel filler caps be deleted. The commenter emphasized that the manufacturer has recently issued to all operators of the affected aircraft, a service bulletin (M20-229) that describes the inspection and maintenance procedures required to restore and ensure continued sealing capabilities of the fuel filler cap assemblies. Prior to the service bulletin issuance, there was no manufacturer recommended procedure for insuring integrity of the filler cap seals. The FAA concurs that the issuance of the manufacturer's service bulletin and issuance of an AD requiring a one time inspection of the caps should adequately increase the awareness of the aircraft operators and maintenance personnel regarding potential fuel cap seal deficiencies and eliminate any need for mandatory repetitive inspections of the caps. This commenters recommendation, therefore, has been incorporated into the final rule.

The fourth commenter recommended mandatory initial and repetitive inspections of the fuel caps at each annual inspection in addition to each 100 hours time-in-service. The purpose of this recommendation was to assure timely inspection of fuel caps on airplanes that are flown only a few hours each year since it may take several years to accumulate 100 hours time-in-service on some airplanes. The recommendation also points out that deterioration of fuel cap seals and entry of water may occur without accumulating any flying time. The FAA concurs but believes that fuel tanks must be inspected for water traps and water in those traps when the fuel caps are inspected. Therefore, the final AD requires compliance within 100 hours time-in-service after the effective date of

the AD or at the next annual inspection, whichever occurs first.

Accordingly, the final rule will reflect these changes.

No comments were received which involved cost determination.

The FAA has determined that this regulation involves approximately 7800 airplanes at an approximate one-time cost of \$328 per airplane or a total one-time fleet cost of \$2,558,400. The cost is so small that compliance with the AD will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### Adoption of the Amendment

#### PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

**Mooney Aircraft Corporation:** Applies to Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 (all Serial Numbers (S/N)) airplanes certified in any category.

Compliance: Within 100 hours time-in-service after the effective date of this AD or at the next annual inspection, whichever occurs first, unless already accomplished.

To preclude fuel contamination and water entrapment in the fuel tanks accomplish the following:

(a) For Models M20B, M20C, M20D, M20E, M20F, M20G (all S/N), M20J (S/N 24-0001 through 24-1498), M20K (S/N 25-0001 through 25-0854) and M22 (all S/N) airplanes, visually inspect all fuel tank bays and rib stations in accordance with the instructions contained in Mooney S/B M20-230, dated April 10, 1985.

Repair all discrepancies found prior to further flight.

(b) For Models M20C (S/N 2623 through 20-1258) M20D (S/N 201 through 260), M20E, M20F, M20G, M20J, M20K and M22 (all S/N) airplanes, visually inspect the fuel tank filler cap assemblies in accordance with the instructions contained in Mooney S/B M20-229, dated April 10, 1985. Repair all discrepancies found prior to further flight.

(c) For Models M20J (S/N 24-1499 and on) and M20K (S/N 25-0855 and on) airplanes that have had any fuel tank resealed after initial installation at the factory, visually inspect all fuel tank bays and rib stations in accordance with the instructions contained in Mooney S/B M20-230 dated April 10, 1985. Repair all discrepancies found prior to further flight.

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

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Southwest Region, Post Office Box 1689, Fort Worth, Texas 76101.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mooney Aircraft Corporation, Post Office Box 72, Kerrville, Texas 78028-072 or FAA, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on January 6, 1986.

Issued in Kansas City, Missouri, on November 20, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-28489 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 85-AWP-27]

#### Alteration of Control Zone and Transition Area, Lihue, Hawaii; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** Due to recent construction on the Lihue Airport, an outdated airport reference point (ARP) was inadvertently used in the description of the Control Zone and Transition Area. This action amends the descriptions to correct the ARP.

**EFFECTIVE DATE:** 0901 G.m.t., November 21, 1985.

**FOR FURTHER INFORMATION CONTACT:** Bill Reidy, Airspace Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1186.

#### SUPPLEMENTARY INFORMATION:

##### The Amendment

On October 17, 1985, the FAA amended Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Lihue, Hawaii, Control Zone and Transition Area (50 FR 42008). Recent construction at the Lihue Airport resulted in an amended ARP and inadvertently the outdated reference was used. This action corrects the ARP in the Lihue, Hawaii, Control Zone and Transition Area descriptions.

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 warrant preparation of a regulatory evaluation as the anticipated economic 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 impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

##### Adoption of the correction

##### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration, amends Part 71 of the FAR as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

##### § 71.171 [Amended]

2. Section 71.171 is amended as follows:

##### Lihue, HI [Amended]

By removing the words "Lihue Airport (lat. 21°58'46" N., long. 159°20'31" W.);" and substituting the words "Lihue Airport (lat. 21°58'42" N., long. 159°20'40" W.);"

##### § 71.181 [Amended]

3. Section 71.181 is amended as follows:

##### Lihue, HI [Amended]

By removing the words "Lihue Airport (lat. 21°58'46" N., long. 159°20'31" W.);" and

substituting the words "Lihue Airport (lat. 21°58'42" N., long. 159°20'40" W.);"

Issued in Los Angeles, California, on November 18, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85-28492 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 85-AWP-34]

#### Alteration of Ke-ahole Kona, Hawaii, Control Zone and Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action alters and redefines the control zone and transition area at Ke-ahole Kona, Hawaii. The realignment of the controlled airspace is required to contain all IFR operations at Keahole Airport, Hawaii. This action will also change the title of the control zone and transition area to reflect the name of the associated community of Kailua-Kona, Hawaii, and correct the spelling of Keahole Airport.

**EFFECTIVE DATE:** 0901 G.m.t., January 16, 1986.

**FOR FURTHER INFORMATION CONTACT:** Bill Reidy, Airspace Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1186.

#### SUPPLEMENTARY INFORMATION:

##### History

On September 25, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the dimensions and change the name of the Ke-ahole Kona, Hawaii, Control Zone and Transition Area (50 FR 38856). This change to the control zone and transition area is necessary to contain IFR operations within controlled airspace. This action would also change the title of the control zone and transition area to reflect the name of the associated community of Kailua-Kona. This amendment also corrects the spelling of Keahole Airport. 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(s) 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

**The Rule**

This amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to provide realignment of Keahole Kona, Hawaii, Control Zone and Transition Area. This action is necessary to provide sufficient controlled airspace to contain aircraft operating under Instrument Flight Rules (IFR). Keahole Airport is associated with the community of Kailua-Kona, Hawaii, and this action will also change the title of the control zone and transition area to reflect this correction. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

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 impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Control zones, Transition areas, Aviation safety.

**PART 71—[AMENDED]****Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration, Part 71 of the FAR is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1346(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

**§ 71.171 [Amended]**

2. Section 71.171 is amended as follows:

**Kailua-Kona, HI—[Revised]**

"Within a 5-mile radius of Keahole Airport (lat. 19°44'08" N., long. 156°02'56" W.); thence beginning at lat. 19°40'20" N., long. 156°00'30" W.; to lat. 19°38'00" N., long. 156°00'35" W.; to lat. 19°38'40" N., long. 156°06'20" W.; to lat. 19°41'10" N., long. 156°06'00" W.; thence clockwise via the 5-mile radius circle to lat.

19°43'50" N., long. 156°07'20" W.; to lat. 19°55'50" N., long. 156°06'20" W.; to lat. 19°55'00" N., long. 155°57'00" W.; to lat. 19°43'25" N., long. 155°58'25" W.; thence clockwise via the 5-mile radius circle to the point of beginning. This control zone is effective from 0600 to 2000 hours, local time, daily. The effective date and time will, thereafter, be continuously published in the United States Government Flight Information Publication, Chart Supplement—Pacific."

**§ 71.181 [Amended]**

3. Section 71.181 is amended as follows:

**Kailua-Kona, HI—[Revised]**

That airspace extending upward from 700 feet above the surface beginning at lat. 19°37'28" N., long. 155°59'30" W.; to lat. 19°29'00" N., long. 156°00'30" W.; to lat. 19°29'45" N., long. 156°08'50" W.; to lat. 19°38'30" N., long. 156°08'01" W.; thence clockwise via the 8.5-mile radius circle of Keahole Airport (lat. 19°44'08" N., long. 156°02'56" W.); to the point of beginning."

Issued in Los Angeles, California, on November 18, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85-28493 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-13-M

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Part 250**

[Release No. 35-23915; File No. S7-22-85]

**Exemption for Certain Affiliated Persons of Investment Bankers and Commercial Banking Institutions To Serve as Officers or Directors of Registered Public Utility Holding Companies and Their Subsidiaries; Proposed Amendments to Competitive Bidding Rule**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Reproposal of rule revision and rule amendment.

**SUMMARY:** The Commission is republishing for public comment a rule revision that would allow a limited number of persons affiliated with investment bankers and commercial bankers to serve as officers or directors of public utility holding companies and their subsidiaries under certain conditions. This action is intended to simplify and expand the exemptions now available under the existing rule. The Commission is also reproposing amendments to another existing rule which governs competitive bidding procedures for the distribution of securities issued by public utility

holding companies and their subsidiaries.

**DATE:** Comments must be received on or before December 20, 1985.

**ADDRESS:** Send comments in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 (Reference to File No. S7-22-85). All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

**FOR FURTHER INFORMATION CONTACT:**

Denis R. Molleur, Esq., Office of Public Utility Regulation, (202-272-2073), or Elizabeth K. Norsworthy, Chief, Office of Regulatory Policy, (202-272-2048), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is re-publishing for public comment a proposed revision of rule 70 [17 CFR 250.70] under section 17(c) [15 U.S.C. 79g(c)] of the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 *et seq.*] ("Act"), which would permit a limited number of persons affiliated with investment bankers or commercial banking institutions to serve as directors or officers of public utility holding companies and their subsidiaries ("system companies"). The purpose of the rule revision is to simplify and expand the existing rule to give system companies more flexibility in the selection of their officers and directors.

The Commission is also reproposing amendments to rule 50 [17 CFR 250.50] under sections 6, 7(c), and 12(d) [15 U.S.C. 79(f), 79g(c), and 79j(d)] of the Act, which governs competitive bidding procedures for the distribution of securities issued by system companies. The amendments would address potential conflicts of interest which might arise shortly after an affiliated person of an investment banker leaves the board of directors of a holding company if that investment banker plays a significant role in the distribution of the securities issued by the holding company or by any other company in the same system. The proposed amendments would also codify the revised competitive bidding procedures which the Commission announced at the time of the adoption of rule 415 [17 CFR 230.415] under the Securities Act of 1933 [15 U.S.C. 77 *et seq.*].<sup>1</sup>

<sup>1</sup> See Holding Company Act Release No. 22623 (September 2, 1982) [47 FR 24768].

## Background

The Commission initially proposed a revision of Rule 70 and amendments to Rule 50 earlier this year.<sup>2</sup> In response to that proposal, comment letters were received from eighteen persons who endorsed the Commission's objective of revising rule 70 to make the rule simpler and cleaner and to provide system companies with more flexibility in selecting their officers and directors. Most of the commentators acknowledged that in several respects, the proposed rule would give system companies more flexibility. However, they contended that the proposed rule would cut back on existing exemptive relief in other respects, and its net impact would be more restrictive.

The commentators also focused on the proposed amendments to rule 50, objecting primarily to a provision that would require a system company to accept one of at least two independent proposals for the distribution of its securities before entering into any contract or agreement governing that distribution and before the Commission has granted any application, or permitted any declaration to become effective, with respect to those securities. As discussed in more detail below, the Commission has redrafted the proposal in view of the comments received, and is publishing the revised version for comment.

## Discussion

### I. Revision of Rule 70

#### A. Limitations on Affiliated Persons of Commercial Banking Institutions or Investment Bankers Serving as Directors of System Companies

1. *Percentage limitations.* The repropounded rule would provide that a holding company or subsidiary company may have up to three-quarters of its board of directors affiliated with banking institutions, so long as no more than one-fourth of its directors are affiliated with investment bankers or with commercial banking institutions that have their principal place of business outside the area served by the system. Existing rule 70 permits a registered holding company or any of its subsidiaries to have as many as one-half of its directors affiliated with "local" commercial banking institutions or two-thirds of its directors affiliated with "small" commercial banking institutions.<sup>3</sup> The existing rule also

permits any system company to have one director who is affiliated with a "small" investment banker that has never marketed or traded for its own account securities issued by system companies.<sup>4</sup> As initially proposed, revised rule 70 would have permitted holding companies to have no more than one-third of their board of directors comprised of persons affiliated with banking institutions, but that one-third could be drawn from commercial or investment banking institutions, wherever situated. A public utility subsidiary company could have another third of its board comprised of persons affiliated with local commercial banking institutions.

Several commentators endorsed the Commission's willingness to allow more holding company directors to be affiliated with banks whose principal offices are outside a system's service area. However, a number of commentators objected to the proposed decrease in the number of holding company directors who could be affiliated with commercial banking institutions generally. Although these commentators were not disturbed by the proposed percentage limitations as applied to affiliates of investment bankers, they contended the Commission requires such directors to serve only as outside directors of system companies, domination of a holding company system by commercial banking institutions would not be possible. Moreover, several commentators urged the Commission to permit holding companies, as well as their public utility subsidiaries, to have additional directors drawn from local commercial banking institutions because in the more centralized holding company systems, outside directors serve only at the holding company level.

In view of these comments and at the suggestion of several of the commentators, the operative percentage limitations have been changed to allow up to three-quarters of the board of directors of any system company to be affiliated with banking institutions, provided that no more than one-fourth of the directors are affiliated with investment bankers or commercial

banking institutions outside a system's service area.

2. *Limitations on system company directors serving as officers of banking institutions.* The repropounded rule would permit the directors of subsidiary companies who are affiliated with local commercial banking institutions to serve as officers of those local banks as long as they are not also serving as officers of the subsidiary company. Any other system company directors, however, who are affiliated with banking institutions could not serve as officers of those banking institutions.

Under the existing rule, holding company or subsidiary company directors who are affiliated with "small" commercial banks or investment bankers and utility subsidiary directors who are affiliated with "local" commercial banks may serve as officers of those banking institutions. However, holding company directors who are affiliated with local commercial banks may not serve as officers of those banks. The revised rule as initially proposed, would have flatly prohibited any system company director affiliated with a banking institution from serving as an officer of that institution.

Several commentators urged the Commission to continue to allow directors of utility subsidiaries to serve as officers of local commercial banks because these individuals are usually "most knowledgeable" in community affairs and have considerable expertise in financial matters. One commentator asked that the directors of all subsidiary companies be allowed to serve as local bank officers. Taking these comments into account, the repropounded rule would allow a director of any subsidiary of a holding company to serve as an officer of a local commercial bank. However, to avoid domination of holding company systems by banking institutions, the Commission continues to believe that in all other cases, a system company director should be affiliated with a banking institution only as an outside director.

3. *Interlocks between a holding company system and a particular banking institution.* Under the repropounded rule, no more than one director or 10% of the members of a system company's board of directors, whichever is greater, could be affiliated with the same investment banker or with any one commercial banking institution that has its principal place of business outside the system's service area. No more than one director or 25% of the members of a system company's board of directors, whichever is greater,

<sup>2</sup> Holding Company Act Release No. 23693, (May 14, 1985) [50 FR 21080].

<sup>3</sup> Under the existing rule, a "small" commercial banking institution is described as one having combined capital and surplus not in excess of

\$2,500,000 and a "local" commercial banking institution is described as one that has its principal offices within the service area of the system. Although the existing rule permits up to two-thirds of the directors to be affiliated with "small" commercial banks, the capital and surplus of many commercial banks today usually exceeds the \$2.5 million limit set by the existing rule.

<sup>4</sup> A "small" investment banker is described as one that has no more than \$500,000 in total capital and surplus.

could be affiliated with the same local commercial banking institution.

Although the existing rule does not limit the number of interlocks that may exist between a particular banking institution and a particular holding company system, the rule as initially proposed would have: (a) permitted an affiliated person of a particular banking institution to serve as a director of only one company within a holding company system; and (b) allowed no other affiliated person of that institution to serve as a director of that company or of any other company within that system.

A number of commentators objected to this provision. Although they did not question the need for a limitation on the number of interlocks between a holding company system and a particular investment banking institution, they strenuously objected to the imposition of any limitation on interlocks between a holding company system and a particular commercial banking institution. Several commentators pointed out that in a centralized system, where the system companies share the same directors, the result would be "devastating" if directors were forced off the boards of all but one company in the system. One commentator observed that as long as a director's loyalty is to the system, *i.e.* where he is both an officer and a director of the system company but only an outside director of the commercial banking institution, it should not matter how many interlocks exist with that particular bank.

The Commission continues to believe that some limitation on interlocks with commercial banking institutions is appropriate. However, the limitation has been redrafted so that no more than 25% of the board of directors of any one holding company or subsidiary company could be affiliated with the same local commercial banking institution and no more than 10% could be affiliated with the same investment banker or with the same non-local commercial banking institution.

4. *The conflict of interest limitations proposed with respect to investment bankers.* The repropoed rule includes the same conflict of interest limitations with respect to investment bankers that were included in the initial proposal. An affiliated person of an investment banker would be able to serve as an outside director of a holding company only where the investment banker has not acted and does not act as a managing underwriter for the distribution of securities issued by any company within the system during the twelve months prior to the director's appointment or election to the board and while the director is serving on the

board. As noted above, the existing rule permits one person affiliated with a small investment banker to serve as a director of a system company provided that the investment banker has not and is not engaged in underwriting or trading securities of system companies.

Only three commentators addressed this aspect of the proposal. Although the majority found the proposed limitations fully justified, one commentator noted that those limitations would probably keep affiliated persons of major investment bankers off holding company boards. According to that commentator, a major investment banker would probably not want to forego the opportunity of managing a distribution for a system company, and a holding company would probably not want to forego the opportunity of having a major investment banker manage the distribution of securities issued by companies within the system. In contrast, another commentator argued that such provisions are unnecessarily restrictive in view of the competitiveness of today's securities markets, the heightened awareness of directors' responsibilities and the disclosure required with respect to an issuer's transactions with its affiliates.

The Commission continues to believe that conflict of interest limitations should be included in rule 70 to prevent the potential conflict of interest that could arise if a holding company director is given the opportunity to select (or persuade the board to select) the investment banking firm with which he is affiliated to act as a managing underwriter for the system. While potential conflicts of interest may well be minimized by disclosure and market factors, the Commission believes that Congress has clearly indicated that in a utility system context, potential conflicts should be prevented.

#### B. Proposed Limitations on System Company Employees Serving as Directors of Banking Institutions

The repropoed rule would provide that an officer of a holding company or subsidiary company may serve as a director of a commercial banking institution provided that the system company officer does not serve as an officer or employee of the commercial bank and provided that no more than one other officer of the system company serves as a director of that particular commercial bank.

The full-time employee exemption under the present rule also permits employees of system companies to serve as outside directors of commercial banking institutions, but does not limit the number of officers who may serve

on the board of the same commercial bank. The rule revision initially proposed would have allowed officers of only public utility subsidiary companies to serve as outside directors of only local commercial banking institutions, provided that no other officer, employee or director of that company or any other company in the system is affiliated with that particular commercial banking institution.

A number of commentators requested that the Commission retain the full-time employee exemption because there has been no evidence of abuse. According to the commentators, the exemption has given system company officers an opportunity to obtain a broader perspective on financial matters. Moreover, several commentators pointed out that in the more centralized systems, a number of system executives would be forced to give up their bank board memberships because in that type of system, all of the system companies share the same officers and directors. One commentator noted the need to continue to allow system executives to serve on the boards of banks outside the system's service area because several of the systems rely on banks outside their service area or financing.

The repropoed rule would essentially incorporate the full-time employee exemption contained in the existing rule but would add a limitation on the number of officers from a system company who could serve as outside directors of the same bank. This limitation, however, should give the system companies considerably more flexibility than the limitation initially proposed because up to two officers from the same system company could serve as outside directors of the same commercial bank.

#### C. FERC Exemption

The repropoed rule's exemptive provisions described above would replace, *inter alia*, an exemptive paragraph of the existing rule that permits any person affiliated with a banking institution to serve as an officer or director of a system company if authorized by the Federal Energy Regulatory Commission ("FERC"). However, specific comment is requested on whether the FERC exemption should be retained in the final version of the rule.

#### D. Definitions of Commercial Banking Institutions

As in the existing rule, the repropoed rule would state that for purposes of section 17(c), savings and loan associations would not be considered



commercial banking institutions so that a system company could have any number of its officers and directors affiliated with thrifts. The proposed rule would have included savings and loan associations in the definition. The Commission agrees with those commentators who observed that an unlimited number of system company affiliations with savings and loan associations should not present the potential for abuse that is contemplated by section 17(c). If, however, the commercial lending authority of thrifts continues to increase, as noted by one commentator, it may be appropriate to limit such affiliations in the future.

#### E. Grandfather Clause

The repropounded rule would provide that nothing in the rule shall disqualify an affiliated person of an investment banker or commercial banking institution who is serving as an officer or director of a system company as of the effective date of the final rule from continuing to serve in that capacity. The proposed rule contained a "grandfather clause" that would have permitted affiliated persons of commercial and investment bankers who were serving as system company officers or directors on the date of the rule proposal (May 15, 1985) to continue to serve in that capacity.

Several commentators endorsed the idea of having a grandfather clause, but believed that system company officers and directors should be grandfathered as of the effective date of the final rule. Two commentators pointed out that otherwise, the proposed rule's adoption could cause a significant disruption in system company operations. Many system companies held their annual shareholder meetings last May. Changes planned for several months in the composition of the boards of directors were effected at that time. Unless the triggering date of the grandfather clause were changed to the effective date of the final rule, several new directors would have to choose between a board membership with a system company and a board membership with a bank. Some might elect to keep their bank position and resign from the system company board. To avoid this kind of dislocation, the Commission has revised the clause to grandfather any individual affiliated with a banking institution who is permitted under the existing rule to serve as a system company officer or director on the rule's effective date.

#### II. Rule 50

As repropounded, amended rule 50 would require, an applicant or

declarant<sup>5</sup> to accept one of at least two independent proposals for the distribution of the securities which are the subject of its application or declaration. The amended rule would also incorporate the same conflict of interest provisions that were initially proposed, that is, an investment banker could not manage a distribution for any company in a system in which an affiliate of that investment bank is serving or has recently served as a director.

Under the existing rule, an applicant or declarant may not enter into a contract or agreement governing the distribution of its securities without first obtaining—no less than six days in advance—at least two independent proposals. The existing rule also provides that bids are not to be opened at any time or place other than as specified in the invitation. The rule further provides that an authorized representative of each bidder is entitled to be present at the opening of the bids and to examine each proposal submitted. In a recent Statement of Policy,<sup>6</sup> the Commission stated that as long as the issuing company obtains at least two independent proposals, the means of obtaining those offers is more appropriately left to the issuing company. The proposed amendments to rule 50 were intended to codify that position.

As noted above, the commentators focused on the way in which the competitive bidding requirements had been rewritten. In particular, they objected to the proposed requirement that an applicant or declarant accept one of at least two independent proposals for the distribution of a system company's securities before: (i) The Commission grants the application or permits the declaration with respect to those securities to become effective; and (ii) the applicant or declarant enters into a contract or agreement governing the distribution of the securities.

The commentators contended that to require an issuer to accept an independent bid before its application is granted or before its declaration becomes effective would disrupt the utility industry's distribution practices. Although a system company customarily files an application or declaration early in its fiscal year to cover all of the securities that it intends to issue from time to time during that year, the company often does not solicit bids on a

distribution until several months after its application has been granted or its declaration has become effective. Further, the commentators believed that to require an issuer to accept an independent proposal before entering into the contract that will govern the distribution is unrealistic because when an issuer accepts an independent proposal, that acceptance is in effect an entering into a contract or agreement with the bidder. To more accurately reflect the underwriting process, the commentators suggested that the amended rule require an issuer to undertake to accept one of at least two independent proposals before its application is granted or its declaration becomes effective.

The Commission believes that the better solution is to redraft the proposal to simply require an applicant or declarant to accept one of at least two independent proposals. The applicant or declarant could then proceed with the distribution without further order of the Commission.<sup>7</sup> This competitive bid requirement would be applicable to "dribble-out" offerings made pursuant to shelf registrations, as well as other types of offerings that are not expressly excepted by the rule.

**Statutory basis:** The proposed revision of rule 70 would be adopted by the Commission pursuant to the authority granted the Commission in sections 17(c) [15 U.S.C. 79q(c)] and 20(a) [15 U.S.C. 79t(a)] of the Act. The proposed amendments to rule 50 would be adopted pursuant to the authority granted the Commission in sections 6(c), 7, 12(d) and 20(a) [15 U.S.C. 79f(c), 79g, 79i(d) and 79t(a)] of the Act.

#### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission has certified that the proposed revision of rule 70 and the proposed amendments to rule 50 will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

<sup>7</sup> When the distribution is completed, the amended rule would continue to require that a certificate be filed with the Commission identifying, among other things, the purchaser or managing underwriter and the persons who submitted independent proposals. At the suggestion of two commentators, these reporting requirements would track the language of the existing rule and require the applicant or declarant to identify the purchaser or managing underwriter and not all participants in the distribution as initially proposed.

<sup>5</sup> A system company may not issue or sell securities except in accordance with a declaration effective under section 7 or an application for exemptive relief granted under section 6 (b).

<sup>6</sup> See *supra* note 1.

**List of Subjects in 17 CFR Part 250**

Public utility holding companies, Officers and directors of registered holding companies and their subsidiaries, Competitive bidding requirement, Securities.

**Text of Proposed Rule Revision and Rule Amendments**

It is proposed to amend Part 250 of Chapter II, Title 17 of the Code of Federal Regulations as set forth below.

**PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

1. The authority citation for Part 250 is revised to read as set forth below:

Authority: Sections 6(c), 7, 12(d), 17(c) and 20(a), 15 U.S.C. 79f(c), 79g, 79(d), 79q(c) and 79l(a), Section 250.70 also issued under sections 17(c) [15 U.S.C. 79q(c)] and 20(a) [15 U.S.C. 79l(a)] of the Act. Section 250.50 also issued under sections 6(c), 7, 12(d) and 20(a) [15 U.S.C. 79f(c), 79g, 79(d) and 79l(a)] of the Act.

2. By proposing to revise § 250.70 to read as follows:

**§ 250.70 Exemptions from section 17(c) of the Act.**

(a) Notwithstanding the prohibitions contained in section 17(c) of the Act, a registered holding company or subsidiary company thereof, may have up to 25% of the members of its board of directors comprised of affiliated persons of investment bankers or of commercial banking institutions that have their principal places of business located outside the state or states served by the holding company system; *Provided*, That:

(1) Those affiliated persons do not also serve as officers or employees of those banking institutions;

(2) No more than one director or 10% of the members of the board of directors, whichever is greater, is affiliated with any one investment banker or with any one commercial banking institution which has its principal place of business located outside the state or states served by the holding company system; and

(3) Where an affiliated person of an investment banker serves as a director of any company within a holding company system, the investment banker:

(i) Has not acted as a managing underwriter for the distribution of securities issued by any company in the holding company system for at least twelve months prior to the director's appointment or election to the board; and

(ii) Does not act as a managing underwriter for the distribution of

securities issued by any company in the holding company system while the director serves on the board.

(b) A holding company may have up to 75% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located within the state or states served by the holding company system, *Provided*, that:

(1) Those affiliated persons do not also serve as officers or employees of those local commercial banking institutions;

(2) No more than one director or 25% of the members of the board of directors of the holding company, whichever is greater, is affiliated with the same local commercial banking institution; and

(3) The total number of directors who are affiliated with banking institution does not exceed 75% of the members of the board of directors of the holding company.

(c) A subsidiary company may have up to 75% of the members of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located within the state or states in which the subsidiary company operates, *Provided*, That:

(1) Those affiliated persons either do not serve as officers or employees of those local commercial banking institutions or, alternatively, do not serve as officers or employees of the subsidiary company;

(2) No more than one director or 25% of the members of the board of directors of the subsidiary company, whichever is greater, is affiliated with the same local commercial banking institution; and

(3) The total number of directors who are affiliated with banking institutions does not exceed 75% of the members of the board of directors of the subsidiary company.

(d) An officer of a holding company or subsidiary company may serve as a director of a commercial banking institution, *Provided*, that:

(1) The officer of the holding company or subsidiary company does not also serve as an officer or employee of that commercial banking institution; and

(2) No more than one other officer of the holding company or subsidiary company serves as a director of that commercial banking institution.

(e) Nothing in this rule shall disqualify an affiliated person of a commercial banking institution or investment banker who is serving as an officer or director of a registered holding company or a subsidiary company thereof as of [the effective date of the final rule] from continuing to serve in that capacity,

(f) For purposes of this rule,

(1) An "affiliated person" of a commercial banking institution or investment banker means an executive officer, director, partner, appointee or representative of that commercial banking institution or investment banker, as well as any person that directly or indirectly owns or holds with power to vote 5 percent or more of the outstanding voting securities of that commercial banking institution or investment banker.

(2) A "commercial banking institution" means any person:

(i) That engages directly or indirectly in the business of a bank, trust company, bank-holding company, banking associated or firm; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's nomination to the board of directors, or appointment as officer, of a registered holding company or subsidiary company thereof. The term also excludes any savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, or any receiver, conservator, liquidator, liquidating agent, or similar official or person thereof or therefor.

(3) An "investment banker" means any person:

(i) That engages directly or indirectly in the business of underwriting or dealing in securities that are not exempted from registration under the Securities Act of 1933 by section 3 of that Act; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's nomination to the board of directors of a registered holding company unless those revenues were derived from acting as a managing underwriter for the distribution of securities issued by any company in such holding company system.

(4) A person's gross revenues from its own commercial and investment banking activities and from its ratable share of the commercial banking and investment banking activities of enterprises in which it owns 20 percent

or more of the equity interest should be considered in determining the degree to which the person is engaged in such activities.

(5) A "director" means any director of a corporation or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust or other company.

(6) An "officer" or "executive officer" means a chairman of the board of directors, chairman of the finance committee or executive committee, president, vice president, treasurer, secretary, comptroller, and in the case of a commercial banking institution, a trust officer; or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust, or other company.

(7) A "managing underwriter" means an underwriter (or underwriters) who, by contract or otherwise, deals with the registrant; organizes the selling efforts; receives some benefit directly or indirectly in which all other underwriters similarly situated do not share in proportion to their respective interests in the underwriting; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.

3. By proposing to revise the section heading and paragraphs (b), (c), and (d) of § 250.50 to read as follows:

§ 250.50 Competitive bidding procedures.

(b)(1) *Requirement.* An applicant or declarant shall accept one of at least two independent proposals for the distribution of any securities that are the subject of an application or declaration that has been filed with the Commission.

(2) Any proposal which is received from an investment banker as defined in rule 70(f)(3) [17 CFR 250.70(f)(3)] within twelve months after an affiliated person of that investment banker has served as a director of the applicant or declarant or of any company within the same holding company system as the applicant or declarant will not be considered an independent proposal.

(c) *Sale of securities.* The applicant or declarant may, without further order of or filing with the Commission, issue or sell the securities in accordance with the terms and conditions contained in the application, if granted, or in the declaration, if effective.

(d) *Reports.* The applicant or declarant shall include as part of the certificate filed pursuant to § 250.24(a) the names of the purchasers or

underwriters, the terms of the several proposals received, the names of the persons (or in the case of a proposal by a group, of the manager of the group) submitting the proposals, the prospectus being used in connection with the issuance or sale, the underwriting agreement with respect thereto, the distribution of the securities, any State Commission order authorizing the issuance or sale not previously filed, and the indenture or certificate setting forth the definitive terms of the securities. Unless requested by the Commission or required to complete the record as to any matter as to which jurisdiction has been specifically reserved, no further filing with respect to the issuance or sale shall be required.

By the Commission.

Dated: November 21, 1985.

John Wheeler,

Secretary.

Regulatory Flexibility Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the repropoed revision of rule 70 [17 CFR 250.70] and the repropoed amendments to rule 50 [17 CFR 250.50] under the Public Utility Holding Company Act of 1935 ("Act") [15 U.S.C. 79 *et seq.*], set forth in Public Utility Holding Company Act Release No. 35-23915, if promulgated, will not have a significant economic impact on a substantial number of small entities. The revision of rule 70 would simplify, clarify, and expand the exemption from section 17(c) [15 U.S.C. 79q (c)] under the Act, under existing rule 70. The repropoed amendments to rule 50 would address potential conflicts of interest which might arise shortly after an affiliated person of an investment banker leaves the board of directors of a company in a holding company system if that investment banker plays a significant role in the distribution of the securities of any company in the same system. The repropoed amendments would also codify the revised competitive bidding procedures which the Commission announced at the time of the adoption of rule 415 [17 CFR 230.415] under the Securities Act of 1933 [15 U.S.C. 77 *et seq.*] The reason for this certification is that the repropoed rule revision and repropoed amendments will not affect a substantial number of small entities. There are presently thirteen registered holding company systems to which the rules would apply. None of these systems are a small entity as defined in rule 110 under the Act [17

CFR 250.110]. Thus, the proposal will not affect any small entities.

Dated: November 21, 1985.

John S.R. Shad,

Chairman.

[FR Doc. 85-26608 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 7, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Accepting in Part and Rejecting in Part Statement of Notification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by ANR Pipeline Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Maynard Ugol, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8583.

**SUPPLEMENTARY INFORMATION:**

On October 31, 1985, ANR Pipeline Company filed a statement of notification, pursuant to § 284.223(g)(2) of our Regulations, as amended by Order No. 436,<sup>1</sup> that it intends to continue providing interruptible transportation service on behalf of certain low-priority end-users until December 15, 1985. These services commenced prior to November 1, 1985, pursuant to section 157.209(e) of our previous Regulations. ANR further stated that it will comply with §§ 284.8(b) and 284.9(b), relating to non-discriminatory access, with respect to all such service provided.

<sup>1</sup> RM85-1-000, 50 FR 42408 (October 18, 1985).

ANR also stated in its October 31 filing that it does not intend to file for a blanket certificate or to provide transportation service pursuant to the self-implementing procedures of the new regulations promulgated by Order No. 436. Instead, ANR stated that during the transition period it will only transport for a new shipper pursuant to a new certificate under section 7(c) of the Natural Gas Act. ANR further stated that it conditioned its statement of notification for transportation on behalf of the end-users on the assurance that such transitional transportation does not constitute an election to transport under the blanket or self-implementing certificate conditions promulgated by Order No. 436.

We accept ANR's filing insofar as it indicates that ANR will continue to provide transportation under § 284.223(g)(2) to customers whose service had commenced prior to November 1, 1985.

We reject the filing, however, insofar as ANR has notified us that it will provide new service during the transition period pursuant only to a new section 7(c) certificate.

ANR does not need additional section 7(c) authority to provide nondiscriminatory transportation to new customers after November 1, 1985.<sup>2</sup> It can provide such transportation under authority of its existing blanket certificate as extended for 45 days under § 284.223(g) of the regulations promulgated in Order No. 436 and section 311 of the Natural Gas Policy Act of 1978. ANR may also choose to apply for a new blanket certificate under § 284.221. However, after October 31, 1985, ANR may not continue to provide service through December 14, 1985 under § 284.223(g)(2) to customers, whose service commenced prior to November 1, 1985, without providing service on a not unduly discriminatory basis to any other customers who may wish to have gas transported. Any other action after October 31, 1985, would be inconsistent with the holding of the Court of Appeals in *Maryland People's*

*Counsel v. F.E.R.C.*, 761 F.2d 780 (D.C. Cir. 1985); 768 F.2d 1354 (D.C. Cir. 1985); and therefore inconsistent with the requirements of the Natural Gas Act. Section 284.223(g)(2) of the Regulations specifically requires ANR to comply with §§ 284.7,<sup>3</sup> 284.8(b) and 284.9(b) if it wishes to continue service to existing customers until December 15, 1985. Those Regulations provide that any transportation services must be provided without any undue discrimination or preference, including undue discrimination or preference in customer classification.

ANR is not in compliance with §§ 284.8(b) and 284.9(b) if it refuses to provide transportation to other customers on a non-discriminatory basis.<sup>4</sup>

By the Commission.

William H. Zietz,  
Acting Secretary.

[FR Doc. 85-28519 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 1, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Orange and Rockland Utilities, Inc. and Transcontinental Gas Pipe Line Corporation, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

<sup>2</sup>In its Statement of Notification ANR erroneously refers to § 284.6.

<sup>3</sup>We note that on November 7, 1985, counsel for ANR filed a letter "in supplementation" of the October 31, 1985 statement of notification. That letter reflects a revised interpretation of the October 31, 1985 statement of notification. The revised interpretation appears to be consistent with the requirements of § 284.223(g).

**FOR FURTHER INFORMATION CONTACT:** Paul Biancardi, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-5418.

#### SUPPLEMENTARY INFORMATION:

Under two separate filings on October 31, 1985 both Orange and Rockland Utilities, Inc. (O&R) and Transcontinental Gas Pipe Line Corporation (Transco) request clarification that an NGPA section 311 transportation arrangement which did not commence until October 11, 1985 may go forward under the transition provision for such transactions under our regulations, as amended by Order No. 436.

Transco transports and delivers gas to O&R at an interconnection with that utility located on the New Jersey-New York state line near Rivervale, New Jersey. This interconnection was constructed to effectuate the transportation arrangement. The facilities constructed cost \$3,300,000 and include a meter and regulatory station on Transco's line in New Jersey and approximately 10,000 feet of 16-inch pipeline in New Jersey and New York to connect with O&R's existing system. The costs of all such facilities will be borne by O&R pursuant to a reimbursement agreement with that company entered into on July 29, 1985.

The actual transportation deliveries to O&R did not commence until October 11, 1985. That date, however, was dictated by the completion of the extensive facilities necessary to effectuate such deliveries, and in no wise reflected the intent of the parties or any other aspect of the service arrangement which was requested by O&R in 1984 and entered into by Transco and O&R in the spring of 1985.

Unless the transition rules are found to apply, O&R as of November 1, 1985 will be deprived of the system supply upon which it is relying and the extensive facilities constructed to deliver and receive such supply will be rendered useless. In light of the extraordinary, unique circumstances presented, we find that this section 311 NGPA transaction may continue under the transition provisions of § 284.105 of our regulations as amended by Order No. 436.

By the Commission.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 85-28540 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

<sup>1</sup>In our October 30, 1985 Order Granting in Part and Denying in Part Request for Clarification in this proceeding concerning Panhandle Eastern Pipe Line Company, we indicated that if a pipeline elects to obtain a blanket certificate under § 284.221, transportation under the blanket certificate cannot be performed, under NGA section 7, until the blanket certificate for it has been issued. ANR, however, would not have to wait for a blanket certificate before commencing transportation to new customers under § 284.223(g)(2) because such transportation would be authorized by its existing blanket certificate. With respect to the Panhandle Eastern clarification we were concerned only with service under a new blanket certificate.

**18 CFR Part 284**

[Docket No. RM85-1-000 (Parts A-D)]

**Regulation of Natural Gas Pipelines After Partial Decontrol**

Issued November 8, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Algonquin Gas Transmission Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Bruce Neely, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8491.

**SUPPLEMENTARY INFORMATION:** On November 4, 1985, Algonquin Gas Transmission Company (Algonquin) filed a motion for clarification in accordance with Rule 212 of the Commission's Rules of Practice and Procedure.<sup>1</sup> Algonquin seeks clarification of § 284.7(b)(1) of Order No. 436.<sup>2</sup>

Algonquin has four NGPA section 311 transportation arrangements that qualify for continuation of service beyond November 1, 1985, within the grandfathering provisions of § 284.105(a) of Order No. 436. Prior to November 1, 1985, the rate Algonquin charged for providing the NGPA section 311 transportation was, pursuant to § 284.103(c)(2) of the previously effective regulations, the rate set forth in its effective rate schedules for transportation provided under section 7(c) of the Natural Gas Act. Algonquin asks whether § 284.7(b)(1) permits it to continue charging the same rate without the necessity of filing another rate schedule.

Section 284.7(b)(1) provides that a pipeline may charge an interim rate for "grandfathered" NGPA section 311

transportation services if the interim rate is

A one part rate filed and included in an appropriate rate schedule on file with the Commission and effective prior to November 1, 1985, for transportation authorized under this part [(Part 284)] . . . as effective prior to November 1, 1985 . . . .

The rate Algonquin seeks to charge for its "grandfathered" NGPA section 311 transportation arrangements is a one part rate that is included in a rate schedule that was on file with the Commission and effective prior to November 1, 1985, and is appropriate for transportation services under Part 284 as effective prior to November 1, 1985. Accordingly, Algonquin may continue to use the rate included in its rate schedules for transportation services provided pursuant to section 7(c) of the Natural Gas Act for its "grandfathered" NGPA section 311 transportation services. Algonquin need not file another rate schedule.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-28520 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

**18 CFR Part 284**

[Docket No. RM85-1-000 (Parts A-D)]

**Regulation of Natural Gas Pipelines After Partial Decontrol**

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Texas Eastern Gas Pipeline Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Christopher Warner, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8440.

**SUPPLEMENTARY INFORMATION:**

On October 31, 1985, Texas Eastern Gas Pipeline Company (Tetco) filed a request for clarification regarding the applicability of the non-discriminatory access condition in Order No. 436 to NGPA section 311 transportation arrangements entered into under Subpart B of Part 284 of the Commission's regulations on or after October 31, 1985. Specifically, Tetco requested confirmation that such transactions will not be subject to the contract conversion and reduction conditions in Order No. 436 if they are terminated on or before December 14, 1985. In addition, Tetco requested confirmation that such transactions conducted under Subpart B will not subject it to the obligation to file for a new blanket certificate or provide non-discriminatory access to transportation services under such a blanket certificate under Subpart G of the Commission's regulations.

The Commission has responded to the first question by separate order issued today (see attached). In addition, the initiation of new section 311 transactions under Order No. 436 subjects the pipeline to the non-discriminatory access condition applicable to such service (see §§ 284.8(b) and 284.9(b)), but would not obligate the pipeline to file for a new blanket certificate under Subpart G of Part 284 of the Commission's regulations.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28543 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

**18 CFR Part 284**

[Docket No. RM85-1-000 (Parts A-D)]

**Regulation of Natural Gas Pipelines After Partial Decontrol**

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy

<sup>1</sup> See 18 CFR 385.212.

<sup>2</sup> 50 FR 42408 (October 18, 1985).

Act of 1978. In response to a petition filed by Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Christopher Warner, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8440.

**SUPPLEMENTARY INFORMATION:**

On October 31, 1985, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia) filed by letter a request for clarification of the applicability of the non-discriminatory access condition and contract reduction and conversion conditions in Order No. 436 to new or expanded transportation initiated under NGPA section 311 or the new blanket certificate provisions of Order No. 436. Specifically, Columbia asked for confirmation that these new or expanded arrangements will not subject Columbia to an irrevocable commitment to continue non-discriminatory transportation on or after December 15, 1985, or to accept the contract conversion or reduction conditions, provided such arrangements are all terminated prior to December 15, 1985.

A pipeline may initiate new or expanded NGPA section 311 transportation transactions. These transactions may all be terminated prior to December 15, 1985, so long as the termination is not unduly discriminatory. If the transactions are so terminated, the contract-demand reduction and conversion rights in § 284.10 never attach. Furthermore, the other conditions applicable to those transactions, including the non-discriminatory access conditions under § 284.8 or § 284.9 and the rate condition under § 384.7, cease to apply beyond that date.

A pipeline may also initiate new transportation arrangement under a new blanket certificate issued pursuant to Order No. 436, and structure such arrangement consistent with the Commission's discussion at pages IV.A.47-48 of Order No. 436.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 85-28533 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

**18 CFR Part 284**

[Docket No. RM85-1-000 (Parts A-D)]

**Regulation of Natural Gas Pipelines After Partial Decontrol**

Issued November 8, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Northwest Pipeline Corporation, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert Christin, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8522.

**SUPPLEMENTARY INFORMATION:** On October 31, 1985, Northwest Pipeline Corporation (Northwest) filed with the Commission a statement of notification pursuant to new § 284.223(g)(2)(i) of Part 284 of the Commission's regulations. In its statement, Northwest stated its understanding that under Order No. 436, it will have no authority or obligation after November 1, 1985 to perform transportation on behalf of any low-priority end-user, high-priority end-user or interstate pipeline that was not authorized and commenced prior to November 1, 1985. Northwest requested that it immediately be advised if its understanding was not correct.

By separate order, the Commission has accepted in part and rejected in part the statement of notification filed by ANR pursuant to new § 284.223(g)(2)(i) of Part 284 of the Commission's regulations. In that order, the Commission clarified that in providing transportation service on a non-discriminatory basis during the 45-day transition period from November 1 through December 14, 1985, in compliance with § 284.223(g)(2), a pipeline does not need additional section 7(c) authority to provide non-

<sup>1</sup> 50 FR 42408 (October 18, 1985).

discriminatory transportation to new customers after November 1, 1985. It is authorized to provide such transportation under authority of both its existing blanket certificate as extended for 45 days under § 284.223(g) of the regulations promulgated in Order No. 436 and section 311 of the Natural Gas Policy Act of 1978. A pipeline may also choose to apply for a new blanket certificate under § 284.221. However, a pipeline may not continue to provide service after October 31, 1985 under § 284.223(g)(2) to customers, unless it provides service, or a not unduly discriminatory basis, to any other customers who may wish to have gas transported. Any other action after October 31, 1985, would be inconsistent with the holding of the Court of Appeals in *Maryland People's Counsel v. F.E.R.C.*, 761 F.2d 780 (D.C. Cir. 1985) and 788 F.2d 1354 (D.C. Cir. 1985) and therefore inconsistent with the requirements of the Natural Gas Act. Section 284.223(g)(2) of the Regulations specifically requires a pipeline to comply with §§ 284.7, 284.8(b) and 284.9(b) if it wishes to continue service to existing customers until December 15, 1985. Those regulations provide that any transportation services must be provided without any undue discrimination or preference, including undue discrimination or preference in customer classification.

A pipeline is not in compliance with §§ 284.8(b) and 284.9(b) if it refuses to provide transportation to other customers on a non-discriminatory basis.

By the Commission.  
Lois D. Cashell,  
Acting Secretary.  
[FR Doc. 85-28525 Filed 11-29-85; 8:45 am]  
BILLING CODE 6717-01-M

**18 CFR Part 284**

[Docket No. RM85-1-000 (Parts A-D)]

**Regulation of Natural Gas Pipelines After Partial Decontrol**

Issued November 8, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 19, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation

program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Transcontinental Gas Pipe Line Corporation the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert Wolfe, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8598.

**SUPPLEMENTARY INFORMATION:** Transcontinental Gas Pipe Line Corporation (Transco) has requested that we clarify the final rule issued in Docket No. RM85-1-000.<sup>1</sup> Specifically, it requests that we clarify that the delivery of natural gas through a newly constructed tap and meter station and approximately nine miles of newly constructed pipe on October 9, 1985, for the purpose of purging and packing such facilities, constitutes the requisite commencement of service under section 311 of the Natural Gas Policy Act (NGPA) for purposes of continuing the underlying transaction under section 284.105 of the new regulations. We agree with Transco's position and will, therefore, grant its request.

Transco's petition and the affidavit of Mr. Frank D. Rock, President of Lynchburg Gas Company (Lynchburg),<sup>2</sup> demonstrates the following. On May 1, 1985 Lynchburg and Virginia Fibre Corporation (Virginia Fibre) executed an agreement under which Lynchburg would sell to Virginia Fibre up to 7,000 dth of natural gas per day for a five-year term. Because Virginia Fibre is a new customer not connected to Lynchburg's distribution system, it was necessary for Lynchburg to construct approximately nine miles of distribution line from a proposed tap and meter station on Transco's system to the Virginia Fibre plant at an estimated cost of \$1,300,000. It was also necessary for Virginia Fibre to convert its three boilers from No. 6 oil service at a cost of approximately \$750,000. Lynchburg secured the necessary gas supplies in the Gulf Coast area and on July 10, 1985, contracted with Transco for the transportation of the gas under section 311 of the NGPA.

On October 9, 19 and 21, 1985 quantities of gas flowed from Transco's system through the newly constructed meter station and were delivered into

Lynchburg's pipeline for the purpose of purging and packing that pipeline and testing the meter station. On October 30, additional quantities of gas flowed through the meter station and regular deliveries to Virginia Fibre's plant commenced. The quantities delivered to Virginia Fibre's plant on October 30 included the quantities delivered into Lynchburg's pipeline on October 9, 12 and 21. Transco will charge Lynchburg for the transportation of all of the above-referenced gas.

We clarify that, based on the factual assertions made by Transco, the service agreement referenced above meets the criteria under §284.105. This arrangement was initiated many months ago, as an ordinary section 311 transaction, and at a substantial expense to Lynchburg. Moreover, Transco actually commenced service on October 9, 1985, when it delivered gas into Lynchburg's pipeline. Thus, the transportation service was both authorized and commenced "on or before October 9, 1985. . ." Continuation of service is therefore authorized under the provisions of § 284.105 of the Commission's Regulations.

By the Commission.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 85-28527 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

### 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

#### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Denying Petition for Stay.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Transcontinental Gas Pipe Line Corporation, the Commission issued this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

#### FOR FURTHER INFORMATION CONTACT:

Robert O. Foerster, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8317.

**SUPPLEMENTARY INFORMATION:** On October 9, 1985, we issued Order No. 436 in which we promulgated regulations governing the transportation of natural gas in interstate commerce. Transcontinental Gas Pipe Line Corporation (Transco) has petitioned us for a stay of that order. As discussed below, we will deny the petition.

For the most part, the arguments raised by Transco are identical to arguments we considered and rejected regarding petitions for a stay filed by Natural Gas Pipe Line Company of America, the American Gas Association, and the Interstate Natural Gas Association of America. See our order Denying Petitions for Stay, issued October 31, 1985, in this proceeding. For the same reasons, we reject Transco's arguments on the ground that justice does not require postponing the effective date of the regulations.<sup>1</sup>

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-28544 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

### 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

#### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Denying Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Consolidated Fuel Supply, Inc. the Commission issues this order clarifying Order No. 436.

<sup>1</sup>Section 705 of the Administrative Procedure Act authorizes us to postpone the effective date of action taken when we find that justice so requires.

<sup>1</sup> Order No. 436, 50 FR 42408 (October 18, 1985).

<sup>2</sup> Lynchburg is a distribution utility serving gas at retail in an area comprised of Lynchburg, Virginia and surrounding counties.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Paul Biancardi, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-5418.

**SUPPLEMENTARY INFORMATION:** On October 31, 1985, Consolidated Fuel Supply, Inc., pursuant to Rule 212 of the Commission Rules of Practice and Procedure,<sup>1</sup> requested clarification of the transition provision for blanket certificate transactions for high priority end-users as established in § 284.223(g)(1) of Order No. 436. Specifically, Consolidated asks whether an amendment to the original transportation agreement, such as changing a point of receipt for the gas, which was not "implemented" until October 11, 1985, could qualify under § 284.223(g)(1).

In order to qualify under § 284.223(g)(1), the amendment would have to have been implemented prior to October 9, 1985. Any subsequent changes to the terms and conditions of the originally certificated transaction would require an application for a new blanket certificate under § 284.221 of Subpart G.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 85-28532 Filed 11-29-85; 8:45 am]  
BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission; Energy.

**ACTION:** Order Denying Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Carnation Company, the

Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Paul Biancardi, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-5418.

#### SUPPLEMENTARY INFORMATION:

##### Order Denying Request for Clarification

Regulation of natural gas pipelines after partial wellhead decontrol (Carnation Co.); Docket No. RM85-1-000 (Parts A-D).

Issued October 31, 1985.  
Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

On October 30, 1985, Carnation Company (Carnation) filed a request for clarification in accordance with Rule 212 of the Commission's Rules of Practice and Procedure.<sup>1</sup> Carnation seeks confirmation that existing arrangements<sup>2</sup> qualify for the transition period as Order No. 319 arrangements under § 284.223(g)(1) of Order No. 436.<sup>3</sup>

As we understand Carnation's request, Carnation contends that an Order No. 319 authorization was in existence prior to October 9, 1985, to transport gas on its behalf. The gas, however, was not actually transported under that authority. Instead, the gas was transported under a special marketing program.

Accordingly, the transaction does not qualify under § 284.223(g)(1). That transition provision explicitly requires that the transaction be both authorized and commenced, as an Order No. 319 transaction, prior to October 9, 1985.

By the Commission,  
Kenneth F. Plumb,  
Secretary.  
[FR Doc. 85-28531 Filed 11-29-85; 8:45 am]  
BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

<sup>1</sup> See 18 CFR 385.212.  
<sup>2</sup> Carnation uses the phrase "purchase arrangement." Only "transportation" arrangements, however, are eligible for Order No. 319 authorization.  
<sup>3</sup> 50 FR 42408 (October 18, 1985).

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order granting motion for clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Pacific Gas and Electric Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert O. Foerster, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8317.

#### SUPPLEMENTARY INFORMATION:

##### Order Granting Motion for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Pacific Gas and Electric Company); Docket No. RM85-1-000.

Issued October 31, 1985.

Pacific Gas and Electric Company (PG&E) has filed a motion for clarification of the final rule we issued in Docket No. RM85-1-000.<sup>1</sup> Specifically, it requests that we clarify that El Paso Natural Gas Company may continue to provide transportation service to it pursuant to section 311 of the Natural Gas Policy Act of 1978 after November 1, 1985. We will grant PG&E's motion.

PG&E began to receive section 311 transportation from El Paso on August 12, 1985, pursuant to an oral agreement between the two parties. They have never executed a written agreement covering that transportation service.

Section 284.105 of the regulations promulgated by Order No. 436 provides that any NGPA section 311 transportation service authorized and commenced on or before October 9, 1985, may be continued, with several exceptions, under the terms and conditions that applied prior to November 1, 1985, until the earlier of October 9, 1987, or the end of the expiration of the term of contract.

<sup>1</sup> Order No. 436, 50 FR 42408 (October 18, 1985)

<sup>1</sup> 18 CFR § 385.212.



We have previously clarified that this transition rule is applicable to transportation arrangements which commenced prior to October 9, 1985, pursuant to a previously-executed written agreement. We also clarified that the rule is not applicable to service which commenced after October 9, 1985, pursuant to a verbal agreement.<sup>2</sup> We further clarify here that § 284.105 is applicable to service which commenced pursuant to a verbal agreement prior to October 9, 1985, as long as the parties to the transaction have complied with all applicable reporting requirements.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26541 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

### 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

#### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order denying request for clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Midwest Solvents Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Jack Kendall, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8582.

#### SUPPLEMENTARY INFORMATION:

##### Order Denying Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

<sup>2</sup> See our Order Denying Petition for Declaratory Order and Denying, in Part, and Granting, in Part, Motion for Clarification issued in this proceeding on October 30, 1985, concerning El Paso Natural Gas Company.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Midwest Solvents Company); Docket No. RM85-1-000 (Parts A-D).

Issued October 31, 1985.

On October 30, 1985, Midwest Solvents Company (Midwest) filed a request for clarification that the current blanket certificate transportation arrangement between Panhandle Eastern Pipeline Company (Panhandle) and Midwest qualifies under § 284.223(g)(1) of Order No. 436<sup>1</sup> for continued transportation authorization after November 1, 1985.

Midwest asserts that its requested clarification, which would allow Panhandle to continue transportation without becoming subject to the open-access conditions of Order No. 436, is appropriate because the natural gas transported is for agricultural use, a high priority end use. Midwest believes the transportation arrangement has always qualified under § 157.209(a)(1) of the pre-November 1, 1985 regulations. However, Midwest states that Panhandle's blanket certificate was issued incorrectly under § 157.209(e),<sup>2</sup> because Panhandle mistakenly applied under § 157.209(e).

Midwestern asks that the Commission clarify that Panhandle is allowed to proceed with its transportation for Midwestern under § 284.223(g)(1).

The Commission denies Midwest's clarification request, as Midwest has been on notice since at least June 19, 1984, when notice of Panhandle's application appeared in the Federal Register,<sup>3</sup> that Panhandle had applied under § 157.209(e) of the Regulations for its blanket certificate to transport on Midwest's behalf. Further, to ensure against the interruption of Midwest's supplies, Panhandle may continue to transport under either § 284.223(g)(2) or, since the gas is delivered to a local distribution company on Midwest's account, under Panhandle's self-implementing transportation authority

<sup>1</sup> 33 FERC ¶ 61,007 (1985), 50 FR 42,408 (October 18, 1985).

<sup>2</sup> Panhandle filed in Docket No. CP84-472-000 on June 8, 1984 for a blanket certificate to transport on Midwest's behalf. Since no protests were filed in response to the notice of Panhandle's application, 49 FR 25,032 (June 19, 1984), a blanket certificate was granted automatically (i.e., without issuance of an order) at the end of the 45-day notice period provided for under § 157.205.

<sup>3</sup> The notice, *supra* n.2, did not explicitly state that the application was filed under § 157.209(e). However, the notice could only pertain to a § 157.209(e) application, since no applications or notice thereof were required prior to commencement of transportation services under § 157.209(a). Furthermore, Panhandle's application stated that the natural gas would be used for boiler fuel, which generally is not a high priority use.

under Subpart B of Part 284 of the Commission's Regulations.<sup>4</sup>

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26538 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

### 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

#### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 7, 1985

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order granting request for clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Michigan Gas Utilities Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Maynard Ugoi, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8583.

#### SUPPLEMENTARY INFORMATION:

##### Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Michigan Gas Utilities Company); Docket No. RM85-1-000 (Parts A-D).

Issued November 7, 1985.

On November 4, 1985, Michigan Gas Utilities Company (MGU), filed a request for clarification in accordance with Rule 212 of the Commission's Rules of Practice and Procedure.<sup>1</sup> MGU seeks

<sup>1</sup> Subpart B of Part 284 sets forth the Commission's Regulations that implement section 311(a)(1) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982).

<sup>2</sup> 18 CFR 385.212.

confirmation (1) that Panhandle Eastern Pipe Line Company (Panhandle) may transport gas for North Star Steel Company (North Star) a customer of MGU, as a high priority end-user under § 284.223(g)(1) of the Regulations promulgated by Order No. 436,<sup>2</sup> notwithstanding the fact that Panhandle reported to the Commission prior to October 9, 1985, but without actual notice to North Star or MGU, that the arrangement was for a low priority end-use under § 157.209(e) of the Regulations, and (2) that ANR Pipeline Company (ANR) may not refuse to provide new transportation services to six end-users in MGU's service area during the period from November 1, 1985 to December 15, 1985.

Insofar as its first request is concerned, MGU advises that the gas transported by Panhandle is for a high priority end-use. In its initial report Panhandle identified the transaction as an "industrial process use" coming within § 157.209(e)(1)(i)(A) of the Regulations. Thereafter, on October 23, 1985, Panhandle filed a subsequent report correcting the "clerical error" in its initial report and identifying the transaction as authorized under § 157.209(a)(1)(i)(A). The filing by MGU indicates that the notice and protest procedures of § 157.205 were not followed, thus giving credence to its claim that the transportation had been performed since its commencement on August 1, 1985, under the automatic authorization procedures of § 157.209(a)(1)(i)(A). On the basis, and in light of Panhandle's October 23, 1985 correction filing and the fact that a high priority end-use is involved, we find that the decision in *Midwest Solvents Company*<sup>1</sup> is distinguishable and is not controlling. Panhandle's transportation for North Star may be continued under the provisions of § 284.223(g)(1) of the Regulations.

In regard to MGU's second question, the Commission by separate order has accepted in part and rejected in part ANR's statement of notification filed in compliance with new § 284.223(g)(2)(i) of the regulations.

New § 284.223(g)(2)(i), 284.223(g)(3), 284.8(b) and 284.9(b) authorize a pipeline to continue end-user transportation services under its blanket certificate for a 45-day period after October 31, 1985, if and only if it meets certain conditions. These conditions include, *inter alia*, the requirements that the pipeline file a statement of notification by November

1, 1985, that it will comply with the non-discriminatory access conditions attaching to such transportation service, the requirements that the transportation service provided after November 1, 1985, be provided on a non-discriminatory access basis, and the requirement that all such service cease on December 15, 1985, unless the pipeline files for a new blanket certificate under new § 284.221 before that date.

Thus, a necessary condition precedent to extending the prior authorization was the filing by ANR of the Statement of Notification in compliance with § 284.223(g) of the regulations. The Commission cannot accept for filing statements that are qualified or conditioned in a way that is inconsistent with the requirements of the regulations. The authority to continue blanket certificate transportation between November 1, 1985 and December 15, 1985, is co-extensive with the obligation to serve in a non-discriminatory manner all customers (old and new) that request transportation service without need for further grant of authority from this Commission.

Without this non-discriminatory access requirement, continuing transportation under the blanket certificate after October 31, 1985 would be inconsistent with the holding of the court in *Maryland People's Counsel v. F.R.E.C.*, 761 F.2d 780 (D.C. Cir. 1985); 768 F.2d 1354 (D.C. Cir. 1985).

The Commission's separate order regarding ANR's filing accepts that part that states that ANR intends to comply with non-discriminatory access conditions for the period ending December 15, 1985. However, the order rejects that part of ANR's filing that states that it lacks authority to provide transportation for an end-user during the transition period except by an individual section 7(c) certificate, and will not provide self-implementing transportation service under Order No. 436.

The Commission finds here that a refusal by a company that has voluntarily assumed the non-discriminatory obligations of § 284.8(b) and 284.9(b) to provide service, if in fact it occurs, is inconsistent with the regulations.

For these reasons, the Commission finds that ANR, having assumed the obligation to provide non-discriminatory transportation service for the period November 1, 1985 through December 14, 1985, may not refuse to provide transportation service on a non-discriminatory basis to MGU for the period November 1, 1985 through December 14, 1985, under new § 284.223

of Part 284 of the Commission's Regulations.

By the Commission.

William H. Zietz,

Acting Secretary.

[FR Doc. 85-28537 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 13, 1985.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Carnegie Natural Gas Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Paul Biancardi, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5418.

#### SUPPLEMENTARY INFORMATION:

##### Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Carnegie Natural Gas Company) Docket No. RM85-1-000 (Parts A-D).

Issued November 13, 1985.

By letter dated and filed November 6, 1985 Carnegie Natural Gas Company requested the Commission:

To indicate whether a pipeline may initiate § 284.221 transactions prior to December 15, 1985 and terminate them prior to said date without triggering the contract demand and conversion rights in Section 284.10; and that the non-discriminatory access conditions under § 284.8 or § 284.9 and the rate condition under § 284.7 would also cease to apply after termination on December 15, 1985.

<sup>1</sup> 50 FR 42408 (October 18, 1985); Technical Corrections issued October 24, 1985.

<sup>2</sup> Docket No. RM85-1-000, Ordering Denying Request For Clarification, issued October 31, 1985.

In a previous order,<sup>1</sup> we indicated that a pipeline may initiate new transportation arrangements under a new blanket certificate issued pursuant to Order No. 436,<sup>2</sup> consistent with the Commission's discussion in the preamble. The rules governing a request to terminate all service under a new subpart G blanket certificate are the same basic rules as apply whenever a pipeline seeks to discontinue a particular service. See 18 CFR 157.18.

The Commission will review these requests on a case-by-case basis exactly as it did under pre-existing regulations.<sup>3</sup> Therefore, consistent with § 157.18, a pipeline may terminate transactions initiated pursuant to a new blanket certificate without triggering the contract demand and conversion rights in § 284.10, if its applies for and the Commission grants appropriate abandonment authorization prior to December 15, 1985. Sections 284.7, 284.8 and 284.9 would also cease to apply after such termination.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28521 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 8, 1985

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by El Paso Natural Gas Company, the Commission issues this order clarifying Order No. 436.

<sup>1</sup> Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Columbia Gas Transmission Corp.), Order Granting Request For Clarification, October 31, 1985.

<sup>2</sup> 33 FERC section 61,007, 50 FR 42408 (October 18, 1985).

<sup>3</sup> 50 FR 42434 (October 18, 1985).

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Jack Kendall, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8582.

#### SUPPLEMENTARY INFORMATION:

##### Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (El Paso Natural Gas Company); Docket No. RM85-1-000 (Parts A-D).

Issued November 8, 1985.

El Paso has filed a request for clarification concerning whether it has complied with all applicable reporting requirements as stated in the order of the Commission issued October 31, 1985, concerning transportation by El Paso under section 311 of the Natural Gas Policy Act.

El Paso's concern stems from the timing of the subsequent report requirement under former Rule 284.106(b). With respect to the transactions at issue El Paso had filed both the 48-hour report and the initial full report required by the regulations, but had not yet filed the subsequent report showing a change in the information previously submitted.

El Paso is incorrect in so far as it urges that the reporting requirement of § 284.106(b) does not apply to the transactions at issue. However, the Commission accepts the information contained in El Paso's most recent request for clarification as the subsequent report so required. Therefore, El Paso has satisfied the reporting requirement of former § 284.106(b).

Therefore, assuming that the transportation service in question was otherwise authorized and commenced on or before October 9, 1985, that service may be continue under the terms and conditions that applied prior to November 1, 1985; however, the rate condition (§ 284.7) and the reporting requirements (§ 284.106) of the new regulations apply to this service. The service may also be continued only for the term of the authorized transportation arrangement as it was in effect on October 9, 1985, or until October 9, 1987, whichever is earlier.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-28523 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 13, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Tex-La Gas Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Joel Arneson, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8570.

#### SUPPLEMENTARY INFORMATION:

##### Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Tex-La Gas Company); Docket No. RM85-1-000 (Parts A-D).

Issued November 13, 1985.

On November 1, 1985, Tex-La Gas Company (Tex-La) filed a request for clarification concerning the impact of Order No. 436<sup>1</sup> on United Gas Pipe Line Company's (United) request for waiver of the 30-day initial filing period for self-implementing transactions under section 311 of the Natural Gas Policy Act of 1978. Tex-La also requests clarification that a natural gas transportation service performed by United falls within the scope of the transition provisions of Order No. 436.

United commenced transporting gas for Tex-La on July 19, 1985, under § 284.102 of the Commission's Regulations. The 30-day report for this transaction was due to be filed on August 18, 1985. United filed its report

<sup>1</sup> 50 FR 42408 (October 18, 1985).

on August 23, 1985, and requested a waiver of the 30-day filing requirement.

Inasmuch as United's transportation service for Tex-La was authorized and commenced under the self-implementing procedures of § 284.102 prior to October 9, 1985, the service qualifies under the transition provisions of § 284.105 of the Commission's Regulations.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-28526 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 30, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Denying Petition For Declaratory Order and Denying, in Part, and Granting, in Part, Motion for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by El Paso Natural Gas Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Jack O. Kendall, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8582.

#### SUPPLEMENTARY INFORMATION:

**Order Denying Petition For Declaratory Order and Denying, in Part, and Granting, in Part, Motion for Clarification**

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (El Paso Natural Gas Company); Docket No. RM85-1-000 (Parts A-D).

Issued October 30, 1985.

On October 22, 1985, El Paso Natural Gas Company filed a petition for a declaratory order or, in the alternative, clarification: (1) That El Paso is permitted, pursuant to § 284.105 of the Commission's Regulations, to perform on and after November 1, 1985, certain interruptible transportation services pursuant to verbal agreements entered into prior to October 9, 1985, without becoming subject to the non-discriminatory access conditions that will become effective November 1, 1985; and (2) that Order No. 436<sup>1</sup> permits pipelines to provide transportation services for more than one month after November 1, 1985, if their underlying written and verbal contracts entered into prior to October 9, 1985 provide for renewal of such transportation agreements on a month-to-month basis, without becoming subject to the non-discriminatory access conditions.<sup>2</sup>

El Paso's petition for a declaratory order providing that the described transportation arrangements are eligible, pursuant to § 284.105, for "grandfathering" after November 1, 1985, is denied. We will, however, provide the following clarifications.

(1) If transportation services were being provided on October 9, 1985, pursuant to a written contract executed prior to that date, these transportation services may continue after November 1, 1985 if the contract provides for continuation of transportation services after that date on a month-to-month basis. Such transportation is grandfathered under § 284.105 until the earlier of October 9, 1987, or the end of the final month for which the written contract, as it was in effect on October 9, 1985, provides for extension or renewal on a month-to-month basis. Such transportation will not subject a pipeline to the non-discriminatory access conditions of §§ 284.8 and 284.9 or customer contract reduction and conversion options under § 284.10.

(2) In the case of transportation services on a month-to-month or other basis that were originally provided for under a verbal agreement entered into prior to October 9, 1985, but which were not commenced until after October 9, 1985 (but prior to November 1, 1985),

<sup>1</sup> Order No. 436, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 33 FERC ¶61,007 (1985), 50 FR 42408 (October 18, 1985), (hereafter cited as Order No. 436).

<sup>2</sup> Filings styled as motions to intervene in this proceeding on El Paso's petition were filed by Pacific Gas and Electric Company (PG&E) and Southern California Gas Company (SoCal Gas). In addition, the Public Utilities Commission of the State of California (CPUC) made a filing styled as an answer to El Paso's petition. Pursuant to Procedural Rule 202 (18 CFR 284.202), these filings are being treated as comments on El Paso's petition.

continuation of such transportation services by a pipeline on or after November 1, 1985 will subject the pipeline to the non-discriminatory access conditions of Order No. 436, even if a written contract reflecting the verbal agreement was or is executed prior to November 1, 1985. Clarification on this point was provided by the Commission's October 24, 1985 Technical Corrections notice.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28534 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.

**AGENCY:** Federal Energy Regulatory Commission DOE.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by El Paso Natural Gas Company, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Maynard Ugol, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8583.

#### SUPPLEMENTARY INFORMATION:

**Order Granting Request for Clarification**

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (El Paso Natural Gas Company); Docket No. RM85-1-000, (Parts A-D).

Issued October 31, 1985.

On October 31, 1985, El Paso Natural Gas Company (El Paso) filed a request for clarification of the effect of Order

No. 436<sup>1</sup> with respect to the continuation of two transitional transportation arrangements under section 311 of the Natural Gas Policy Act and § 284.105 of the regulations, as effective November 1, 1985.

El Paso's transportation for both Intratex Gas Company (Intratex) and Pacific Gas & Electric Company (PG&E) had commenced prior to October 9, 1985. In each instance, the parties had executed letter agreements prior to that date to continue service for an additional two year period into 1987. Appropriate extension reports were filed in accordance with §§ 284.105 and 284.106 of the regulations, that for the Intratex service on July 22, 1985, and for continued service to PG&E on August 1, 1985.

Under § 284.105(b), an extension became effective automatically unless otherwise ordered by the Commission.

No action has been taken to modify the proposed extensions and the time therefor has expired.

On the basis of the facts outlined in the request for clarification, the copies of the letter agreements appended thereto, and the extension reports, it is the Commission's conclusion that these two on-going transportation agreements, which were both authorized and commenced prior to October 9, 1985, may continue beyond November 1, 1985, and through their extended terms (but not beyond October 9, 1987) without otherwise subjecting El Paso to the other requirements of the new regulations.

By the Commission,

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28535 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 30, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Denying Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates

under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Hadson Gas Systems Inc., the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:**

Paul Biancardi, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5418.

**SUPPLEMENTARY INFORMATION:**

#### Order Denying Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Hadson Gas Systems, Inc.); Docket No. RM85-1-000 (Parts A-D).

Issued October 30, 1985.

On October 24, 1985, pursuant to Rules 212 and 713 of the Commission's Rules of Practice and Procedure,<sup>1</sup> Hadson Gas Systems, Inc., (Hadson), a natural gas gatherer and marketer, filed a request for clarification of the "grandfathering" provision in 18 CFR 284.105(a), Order No. 436,<sup>2</sup> as to whether it allows amendment of "authorized transportation agreements" under section 311 of the Natural Gas Policy Act of 1978 (NGPA). The purpose for such amendment would be to allow substitution of gas suppliers and the addition of points where gas is received by the pipeline in the field.

Hadson explains that once a supplier is determined, the transportation agreement is modified to reflect the new supplier, the source of the gas and the point of receipt by the pipeline. Hadson is concerned that if a pipeline elects to "grandfather" its transaction under § 284.105, the gas supplies would be locked in for the remaining life of the section 311 transportation agreement.

Section 284.105 "grandfathers" transportation arrangements independent of purchase agreements. This section specifically limits the "grandfathered" transportation transaction to the transportation arrangements that existed on October 9, 1985.<sup>3</sup> Any changes to those terms and

<sup>1</sup> 18 CFR 385.212 and 18 CFR 385.713, respectively.

<sup>2</sup> 50 FR 42408 (October 18, 1985).

<sup>3</sup> As issued on October 9, 1985, § 284.105 of Order No. 436 provided that on-going transportation service authorized under Subpart B before November 1, 1985, may be continued until the expiration of the transportation agreement or October 31, 1987, whichever is earlier. On October 24, 1985, the Commission issued a Technical

conditions would be considered an initiation of a new NGPA section 311 transportation transaction under § 284.102.

By the Commission,

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28536 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 1, 1985

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order Granting Request for Clarification.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by transcontinental Gas Pipe Line Corporation, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:**

Robert Christin, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8522.

**SUPPLEMENTARY INFORMATION:**

#### Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Transcontinental Gas Pipe Line Corporation); Docket No. RM85-1-000.

Issued November 1, 1985.

Transcontinental Gas Pipe Line Corporation (Transco) has requested that we clarify the final rule we issued in Docket No. RM85-1-000.<sup>1</sup>

Correction to Order No. 436. One such correction was that the reference to October 31, 1985, in § 284.105(a)(2), should be October 9, 1985.

<sup>1</sup> Order No. 436, 50 FR 42408 (October 18, 1985).

<sup>1</sup> 50 FR 42408 (October 18, 1985).

Specifically, it requests that we clarify that the mutual intent of the parties as to the terms of certain transportation agreements which were authorized and commenced under NGPA section 311 on or before October 9, 1985, is the controlling factor in whether the transportation transactions qualify for treatment under § 284.105 of the regulations promulgated in Docket No. RM85-1-000.

Transco states that the term provisions in a relatively small portion of its transportation agreements which were effective prior to or on October 9, 1985, contain the following or similar language:

The agreement shall become effective on the date first written above and shall continue in effect on a month-to-month basis until October 31, 1985, unless extended by mutual agreement of the parties. Either party may terminate this agreement by notice to the other party given fifteen days prior to the end of a calendar month; provided Seller can terminate this agreement at any time as a result of Buyer's failure to provide the affidavit(s) required in paragraph 21 hereof.

Transco further states that at the time it and its transportation customers executed agreements with that or similar language; the parties intended for the agreements to remain in effect for the maximum two-year term provided in existing Commission regulations unless earlier terminated by either of the parties under the termination provisions. According to Transco, the October 31, 1985 date was referenced only because of the parties' anticipation of substantial changes in our regulations on that date. Any, it says, only in light of the uncertainties surrounding § 284.105 of the new regulations did Transco conclude that such language could be construed as creating a term ending on October 31, 1985. It states that such construction of the language does not fairly reflect the intent of the parties.

Transco further asserts that the large number of Transco employees involved in drafting the numerous agreements led to different language being included in the term provisions of the agreements. Only a relatively small fraction of its agreements contain the subject term language, and numerous other agreements for similar transportation service contain essentially two-year term provisions.

We clarify that, based on the factual assertions made by Transco, the service agreements referenced above qualify for treatment under § 284.105. Transco, however, must verify by affidavit that (1) the agreements in question constitute a relatively small fraction of its transportation agreements, (2) the

parties to the agreements intended that the term of such agreements would continue beyond October 31, 1985, and (3) this intent is reflected in Transco's remaining transportation agreements. Transco shall file such affidavit not later than 30 days after the date of this order.

By the Commission.  
**Kenneth F. Plumb,**  
*Secretary.*  
 [FR Doc. 85-28545 Filed 11-29-85; 8:45 am]  
**BILLING CODE 6717-01-M**

## 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued October 31, 1985.  
**AGENCY:** Federal Energy Regulatory Commission, DOE.  
**ACTION:** Order Denying Petitions for Stay.

**SUMMARY:** On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In responses to petitions filed by Natural Gas Pipeline Company of America, the American Gas Association, and the Interstate Natural Gas Association of America, the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert O. Foerster, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8317.

**SUPPLEMENTARY INFORMATION:**  
 Order Denying Petitions For Stay

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Docket No. RM85-1-000.

Issued October 31, 1985.

On October 9, 1985, we issued Order No. 436 in which we promulgated regulations governing the transportation of natural gas in interstate commerce. Natural Gas Pipeline Company of America (Natural), the American Gas

Association (AGA), and the Interstate Natural Gas Association of America have petitioned us for a stay of Order No. 436. As discussed below, we will deny the petitions.

The gist of the arguments in support of the petitions for a stay is that the regulations will disrupt the natural gas industry because they are incomplete. This is true, they contend, because we did not issue new regulations concerning how natural gas costs should be billed despite the fact that such regulations were originally contemplated in our May 30, 1985 Notice of Proposed Rulemaking. According to the petitioners, natural gas companies will not be able to make efficient decisions concerning transportation under the new regulations without knowing what billing mechanism we will adopt. Moreover, they argue that the regulations will coerce pipelines to operate as common carriers and will allow customers to abrogate their service agreements with customers.

We are not persuaded by these arguments to stay the effectiveness of our regulations. Section 705 of the Administrative Procedure Act authorizes us to postpone the effective date of action taken when we find that justice so requires. We are unable to make that finding here.

In the first place, the petitioners have not shown that implementation of the Order No. 436 regulations will cause imminent irreparable harm within the natural gas industry. Transportation service authorized under section 311 of the Natural Gas Policy Act of 1978 or FERC Order Nos. 60, 63 and 319 commenced on or before October 9, 1985 has been "grandfathered" until the earlier of October 9, 1987, or the expiration of the authorized term. New section 311 transactions must be provided on a non-discriminatory basis. They can be discontinued, but that also must be done on a non-discriminatory basis. Order No. 436 also expressly delays until 150 days after February 1, 1986, the conditional right of pipeline customers to reduce their firm sales entitlements and delays until 60 days after that same date their option to convert firm sales entitlements to firm transportation service. In addition, only pipelines commencing new transactions or accepting a new blanket certificate beginning December 15, 1985 are subject to these "CD" reduction and conversion conditions. See new § 284.10(a). Thus, the only transportation services that must cease effective November 1, 1985 are those under terms found to be unlawful by the Court of Appeals for the D.C. Circuit in *Maryland People's*

*Counsel v. F.E.R.C.*, 761 F.2d 780 (D.C. Cir. 1985).

Second, we do not believe that staying the effectiveness of Order No. 436 is in the public interest. As we noted in the order, the purpose of the regulations is to assure that commodity and transmission price signals are transmitted between the wellhead and burner-tip in a manner that is clear and accurate and consistent with the Natural Gas Act requirement that rates and practices be just and reasonable and not unduly discriminatory or preferential. The final rule will secure to consumers the benefits of competition in natural gas markets consistent with both the NGA and NGPA. It will achieve these goals by establishing a framework for setting just and reasonable rates and practices for the sale and transportation of gas in interstate commerce and by reasonably conditioning self-implementing interstate transportation services under the NGA and NGPA.

As the petitioners note, we have requested further comments on the revised proposed regulations governing the billing of natural gas costs. We have requested further comments by November 18, 1985, and will hold a public hearing on the subject on December 11, 1985. This action however, does not justify staying the effectiveness of the transportation regulations. To grant the stay would deny to consumers this winter the benefits of market-priced gas supplies on a non-discriminatory basis under the Commission's revised transportation regulations.

In light of the foregoing, we do not find that justice requires postponing the effective date of our Order No. 436 regulations, and the petitions for a stay are denied.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 85-26539 Filed 11-29-85; 8:45 am]  
BILLING CODE 6717-01-M

#### 18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

#### Regulation of Natural Gas Pipelines After Partial Decontrol

Issued November 13, 1985.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order Granting Exemption and Denying Request For Emergency Waiver of Order No. 436.

**SUMMARY:** On October 9, 1985, the

Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Dresser Industries, Inc. the Commission issues this order clarifying Order No. 436.

**EFFECTIVE DATE:** The amendments to Part 284 were effective October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** Marc G. Denking, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9176.

#### SUPPLEMENTARY INFORMATION:

#### Order Granting Exemption and Denying Request for Emergency Waiver of Order No. 436

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Dresser Industries, Inc.); Docket No. RM85-1-000. (Parts A-D)  
Issued November 13, 1985.

On November 7, 1985, Dresser Industries, Inc. (Dresser), requested waiver of § 284.105(b) of the Commission Regulations to permit the continuation of transportation under section 311 of the Natural Gas Policy Act of 1978. The transportation service in question did not commence on or prior to October 9, 1985.

In its request for waiver, Dresser states that Tennessee Gas Pipeline Company (Tennessee) agreed to transport gas under a section 311 arrangement with an intrastate pipeline, Corpus Christi Gas Gathering, to a facility owned by Baker Marine Corporation (Baker).<sup>1</sup> Baker, a subcontractor of Dresser, is constructing a compressor station pursuant to a contract between Dresser and the Egyptian government. Dresser states that up to 640 Mcf of gas per day is needed over a period of four weeks to test the gas compressors prior to shipment to Egypt. All contractual arrangements and construction facilities

<sup>1</sup> On November 7, 1985, Dresser also supplemented its request for waiver with a letter clarifying that the gas in question will be delivered to Sunburst Energies, Inc., a Texas intrastate pipeline, for its system supply, from which the gas will be resold to Baker.

involving the transportation agreement were completed before October 9, 1985, but gas did not flow under this agreement until October 30, 1985. Transportation has been halted. Dresser states that Tennessee will resume transportation only if the requirements of Order No. 436 are waived.

The requested waiver, however, is unnecessary. The transportation in question could be performed under a traditional certificate issued under section 7(c) of the Natural Gas Act. Under section 7(c)(1)(B) of the Act, the Commission can grant an exemption from the requirements of section 7(c) of the Act for the temporary operation of facilities necessary to render direct natural gas service for use in the testing of new natural gas pipeline facilities. The service in question involves a small amount of gas needed for testing equipment over a short, well defined period of time. Accordingly, we will grant such an exemption, which is consistent with approval of a similar exemption in Caterpillar Tractor Company, 11 FERC ¶ 61,076 (1980).

The exemption provided in this order shall be immediately effective and shall terminate December 15, 1985.

By the Commission,  
Kenneth F. Plumb,  
Secretary,  
[FR Doc. 85-26522 Filed 11-29-85; 8:45 am]  
BILLING CODE 6717-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Food and Drug Administration

#### 21 CFR Part 310

[Docket No. 76N-052C]

#### Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Anticholinergic Drug Products for Over-the-Counter Human Use

#### Correction

In FR Doc. 85-26688, beginning on page 46582 in the issue of Friday, November 8, 1985, make the following correction:

On page 46585, first column, the third line should read: "After considering the testimony presented at the hearing and the written comments submitted to the record, in the".

BILLING CODE 1505-01-M

**21 CFR Parts 510, 520, 522, 524, 555, and 558**

**Animal Drugs, Feeds, and Related Products; Change of Sponsor**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of several new animal drug applications (NADA's) from International Multifoods Corp. to ESSAR Corp.

**EFFECTIVE DATE:** December 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

**SUPPLEMENTARY INFORMATION:** ESSAR Corp., P.O. Box 1590, Fort Dodge, IA 50501, has informed FDA that it has purchased all the assets of International Multifoods Veterinary Supply Division, including manufacturing facilities and existing NADA's. International Multifoods Corp. has confirmed the acquisition and change of NADA sponsor. The NADA's affected are:

NADA	Product
55-002	Chloramphenicol injection (100 milligrams/milliliter).
55-059	Chloramphenicol tablets (50, 100, 250, and 500 milligrams, and 1 gram).
95-218	Dexamethasone tablets (0.25 milligram).
128-089	Dexamethasone sterile solution (2 milligrams/milliliter).
107-506	Diethylcarbamazine citrate tablets (50, 100, 200, 300, and 400 milligrams).
118-032	Diethylcarbamazine citrate chewable tablets (50, 120, and 180 milligrams).
126-504	Nitrofurazone ointment (0.2 percent).
132-137	Nitrofurazone solution (0.2 percent weight/volume).
45-416	Phenylbutazone injectable (200 milligrams/milliliter).
118-979	Phenylbutazone oral gel (4 grams/30 grams gel).
44-756	Phenylbutazone tablets (100 milligrams and 1 gram).
120-615	Sulfamethazine sustained-release bolus (8.02 and 32.1 grams).
100-128	Tylosin premix (10 grams/pound).

The change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations are amended to reflect the new sponsor.

International Multifoods Corp. is no longer considered as a sponsor of any approved NADA's. Therefore, the firm is

removed from 21 CFR 510.600 and any corresponding dosage form animal drug regulations.

**List of Subjects**

**21 CFR Part 510**

Administrative practice and procedure, Animal drugs, Labeling; Reporting and recordkeeping requirements.

**21 CFR Part 520**

Animal drugs.

**21 CFR Part 522**

Animal drugs.

**21 CFR Part 524**

Animal drugs.

**21 CFR Part 555**

Animal drugs; Antibiotics.

**21 CFR Part 558**

Animal Drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Chapter I of 21 CFR is amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. In § 510.600 by removing the entry in paragraph (c)(1) for "International Multifoods Corp.", and adding a new sponsor entry alphabetically, and in paragraph (c)(2) by removing the entry for "012518", and adding a new entry numerically to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

(c) \* \* \*  
(1) \* \* \*

Firm name and address	Drug labeler code
ESSAR Corp., P.O. Box 1590, Fort Dodge, IA 50501	053617

(2) \* \* \*

Drug labeler code	Firm name and address
053617	ESSAR Corp., P.O. Box 1590, Fort Dodge, IA 50501

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

3. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

**§ 520.540b [Amended]**

4. In § 520.540b *Dexamethasone tablets and boluses* in paragraph (b)(2) by removing "012518" and inserting in its place "053617."

**§ 520.622a [Amended]**

5. In § 520.622a *Diethylcarbamazine citrate tablets* in paragraph (a)(3) by removing "012518" and inserting in its place "053617."

**§ 520.622c [Amended]**

6. In § 520.622c *Diethylcarbamazine citrate chewable tablets* in paragraph (b)(4) by removing "012518" and inserting in its place "053617."

**§ 520.1720a [Amended]**

7. In § 520.1720a *Phenylbutazone tablets and boluses* in paragraph (b)(3) by removing "012518" and inserting in its place "053617."

**§ 520.1720d [Amended]**

8. In § 520.1720d *Phenylbutazone gel* in paragraph (b) by removing "012518" and inserting in its place "053617."

**§ 520.2260b [Amended]**

9. In § 520.2260b *Sulfamethazine sustained-release boluses* in paragraph (c)(1) and (e)(1) by removing "012518" and inserting in its place "053617."

**PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

10. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

**§ 522.540 [Amended]**

11. In § 522.540 *Dexamethasone injection* in paragraph (d)(2)(i) by removing "012518" and inserting in its place "053617."



**§ 522.1720 [Amended]**

12. In § 522.1720 *Phenylbutazone injection* in paragraph (b)(1) by removing "012518" and inserting in its place "053617."

**PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

13. The authority citation for 21 CFR Part 524 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(1)); 21 CFR 5.10 and 5.83.

**§ 524.1580b [Amended]**

14. In § 524.1580b *Nitrofurazone ointment* in paragraph (b) by removing "012518" and inserting in its place "053617."

**§ 524.1580d [Amended]**

15. In § 524.1580d *Nitrofurazone solution* in paragraph (b) by removing "012518" and inserting in its place "053617."

**PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE**

16. The authority citation for 21 CFR Part 555 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

**§ 555.110a [Amended]**

17. In § 555.110a *Chloramphenicol tablets* in paragraph (c)(2) (iii) by removing "012518" and inserting in its place "053617."

**§ 555.210 [Amended]**

18. In § 555.210 *Chloramphenicol injection* in paragraph (c)(2) by removing "012518" and inserting in its place "053617."

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

19. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

**§ 558.625 [Amended]**

20. In § 558.625 *Tylosin* in paragraph (b)(39) by removing "012518" and inserting in its place "053617."

Dated: November 22, 1985.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 85-28498 Filed 11-29-85; 8:45 am]

BILLING CODE 4160-01-M

**UNITED STATES INFORMATION AGENCY****22 CFR Part 514****Exchange Visitor Program**

AGENCY: United States Information Agency.

ACTION: Modification of Final rule.

**SUMMARY:** The United States Information Agency (USIA) is modifying § 514.23(ix) in order to clarify it. It was intended that individuals directly sponsored by the National Institutes of Health (NIH) be allowed to stay in the United States for a period of up to 5 years in order to complete their programs. As presently written, the language has been misinterpreted to mean that whenever NIH gives a grant or engages in a contract or cooperative agreement with another institution, individuals in that institution would be accorded the same privileges. This modification is to clarify the original intent of the regulation, that the 5 year extension of stay is limited to individuals directly sponsored by NIH.

**DATES:** The modification to the rule shall be effective December 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Merry Lynn, Attorney-Advisor, United States Information Agency, 301 4th Street, SW., Washington, D.C. 20547, telephone: (202) 485-7976.

**SUPPLEMENTARY INFORMATION:** Recently, the USIA received a letter from NIH requesting that the language of 22 CFR 514.23(1)(ix) be amended. That section addresses general limitations of stay to insure that exchange visitors remain in the United States only so long as necessary to satisfy the objectives of the program. 22 CFR 514.23(1)(ix) defines the limitation of stay for the NIH program. It states:

(ix) Research assistants sponsored under contract, grant or cooperative agreement by the National Institutes of Health—5 years.

It has come to our attention by letter from the NIH that this section has been misinterpreted resulting in exchange visitors applying for extensions of their stay unjustifiably. The intention of the language is to allow NIH sponsored exchange visitors 5 years to complete their programs.

It was never the intention of USIA or NIH to allow exchange visitors who are engaged in research for institutions or organizations receiving NIH grants, contracts or cooperative agreements the authority stay in the United States beyond the time envisioned by the program under which they originally entered this country by latching on to

authority granted to NIH. It was not the intention of either USIA or NIH that every university or research institution in the United States which receives a grant, contract, or cooperative agreement from NIH be authorized to extend J-1 visas for 5 years for exchange visitors predicated on that grant, contract, or cooperative agreement. The only exchange visitors whom the regulation is meant to cover, are those who are directly sponsored by NIH through its Fogarty International Center. Thus, qualifying language is added to that section.

**List of Subjects in 22 CFR Part 514**

Cultural exchange programs.

**PART 514—[AMENDED]**

Accordingly, the following modification to Chapter V, Part 514 of Title 22, Code of Federal Regulations is made.

1. The authority citation for Part 514, § 514.23 continues to read as follows:

Authority: (Sec. 804(l), United States Information and Educational Exchange Act of 1948, as amended (68 Stat. 493, as amended; 22 U.S.C. 1474(l), as amended; Pub. L. 97-116, 75 Stat. 527, 534, 535; 8 U.S.C. 1101(a)(15)(j); 95 Stat. 1611, 1612, 1613 (8 U.S.C. 1182(a)(15)(j)), Reorg. Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; Pub. L. 97-241, 96 Stat. 291; USIA Delegation Order No. 83-5 (48 FR 2490))

2. Section 514.23 is amended by revising paragraph (a)(1)(ix) to read as follows:

**§ 514.23 General limitations of stay.**

(a) \* \* \*

(1) \* \* \*

(ix) Research assistants directly sponsored by the Exchange Visitor Program of the National Institutes of Health administered by the Fogarty International Center by contract, grant, or cooperative agreement under Program G-5-111—5 years.

\* \* \* \* \*

Dated: November 5, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison  
United States Information Agency.

[FR Doc. 85-28272 Filed 11-29-85; 8:45 am]

BILLING CODE 8230-01-M

**22 CFR Part 514****Exchange Visitor Program**

AGENCY: United States Information Agency.

ACTION: Suspension of regulation.

**SUMMARY:** The United States Information Agency published an interim rule at 48 FR 50707, November 3, 1983, which, in addition to other changes, updated the minimum requirements for designating Teenage Exchange Visitor Programs. In a letter dated November 5, 1985, the Youth For Understanding requested a waiver of one provision of 514.13(b)(7). This rule suspends said provision until further notice.

**DATES:** The suspension shall be effective December 2, 1985, and shall remain in effect until publication of a subsequent notice.

**FOR FURTHER INFORMATION CONTACT:** Merry Lynn, Attorney-Advisor, United States Information Agency, 301 Fourth Street, SW., Washington, D.C. 20547. (202) 485-7976.

**SUPPLEMENTARY INFORMATION:** The United States Information Agency published an interim rule at 48 FR 50707, November 3, 1983 and codified at 22 CFR 514.13(b)(7).

By letter received November 5, 1985 Youth For Understanding alleges that it is impossible to comply with the following requirement:

"No sponsor shall issue a form IAP-66 for an Exchange Visitor student without including on the form a notation giving the name and address of a host with which he or she is to be placed."

Youth For Understanding requested a waiver of the regulation. There is no provision in the regulation for waiver for a particular organization. Thus, suspension of the provision in the regulation itself, applicable to all teenager exchange organizations, is necessary.

Upon investigation into Youth For Understanding allegations, it will be determined whether the provision should be re-promulgated.

#### List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: November 18, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

#### PART 514—[AMENDED]

Accordingly, pursuant to the foregoing, 22 CFR Part 514 is amended as set forth below:

1. The authority citation for Part 514 continues to read as follows:

**Authority:** (Sec. 4, 63 Stat. 111; secs. 102, 109 (a), (b), (d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(j), 104(a), 212(e), 66 Stat. 166, 174, 182, 184; sec. 2, 84 Stat. 116, 117; 22 U.S.C. 2658, 2452; (8 U.S.C. 1101(a)(15)(j), 1104(a), 1182(e), 1258); Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27,

1978; the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97-241, Title III, August 24, 1982; Pub. L. 97-116, 75 Stat. 527, 534, 535; 8 U.S.C. 1101(a)(15)(j); 95 Stat. 1611, 1612, 1613 (8 U.S.C. 1182(a)(15)(j)), Reorg. Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; Pub. L. 97-241, 96 Stat. 291; sec. 101(a)(15)(j), Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(j); Manual Educational and Cultural Exchange Act of 1961, as amended, 22 U.S.C. 2451; Reorganization Act No. 2 of 1977; E.O. 12048; and Delegation Order No. 83-5 FR 2490)

#### § 514.13 [Amended]

2. Section 514.13(b)(7) is amended by suspending the following provision until further notice.

"No sponsor shall issue a form IAP-66 for an Exchange Visitor student without including on the form a notation giving the name and address of a host with which he or she is to be placed."

[FR Doc. 85-28424 Filed 11-29-85; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 904

#### Approval of Permanent Program Amendment From the State of Arkansas Under the Surface Mining Control and Reclamation Act of 1977

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

**ACTION:** Final rule.

**SUMMARY:** OSM is announcing the approval of a program amendment submitted by Arkansas as an amendment to the State's permanent regulatory program (hereinafter referred to as the Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training, examination and certification, and revises performance standards for the use of explosives.

On December 17, 1984, Arkansas submitted to OSM pursuant to 30 CFR 732.17, an amendment to the Arkansas regulatory program which establishes a blaster training and certification program and amends performance standards for the use of explosives.

On March 7, 1985, OSM announced receipt of the amendment on the proposed program amendments [50 FR 9286]. Following the close of public comment, OSM, on April 4, 1985, sent a letter (AR-283) to the Arkansas Department of Pollution Control and

Ecology (ADPCE) informing the State that OSM had reviewed the amendments and had identified certain deficiencies.

On May 10, 1985, Arkansas submitted to OSM revised proposed program amendments for the blaster certification program and performance standards for the use of explosives (AR-289). On June 13, 1985, OSM reopened the public comment period on the revised program amendments [50 FR 24782].

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations and is approving them. The Federal rules at 30 CFR Part 904 codifying decisions concerning the Arkansas program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

**EFFECTIVE DATE:** December 2, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. James H. Moncrief, Field Office Director, Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 745-7927.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Arkansas State Program

On February 19, 1980, Arkansas submitted its proposed regulatory program to OSM. On November 21, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the corrections of four minor deficiencies. Program approval was effective November 21, 1980 (45 FR 77003-77013).

##### II. Background on Proposed Amendments

Concerning the proposed blaster certification program, on March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR part 850 (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of

explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rules at 30 CFR Part 850, whichever is later.

Arkansas submitted to OSM on December 17, 1984, amendments to the Arkansas regulatory program to establish a blaster training, examination, and certification program and to amend performance standards for the use of explosives.

On March 7, 1985, OSM announced receipt of the amendments, a public comment period and the opportunity to request a public hearing on the proposed amendments [50 FR 9288]. Since no one requested a hearing none was held. The public comment period ended April 8, 1985. No public comments were received during the comment period.

On April 14, 1985, OSM sent a letter (AR-283) to the ADPCE informing the State that OSM had reviewed the amendments and had identified certain deficiencies. The State of Arkansas was provided the opportunity to respond within 30 days to address OSM's concerns. On May 10, 1985, Arkansas submitted to OSM revised proposed program amendments for a blaster training, examination, and certification program and the performance standards for the use of explosives (AR-289).

OSM reopened the public comment period on June 13, 1985, on the revised program amendments [50 FR 247892]. No public comments were received during the comment period which ended July 15, 1985.

On November 1, 1985, OSM completed its review of Arkansas' revised blaster certification examination and determined it to adequately address the Federal requirements at 30 CFR Part 850.

### III. Director's Findings

In accordance with SMCRA and 30 CFR 732.15 and 732.17, the Director finds that the program amendment establishing a program for blaster training, examination, and certification submitted by Arkansas on December 17, 1984, as revised on May 10, 1985, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below. The program amendment revising the State's regulations for the performance standards on the use of explosives meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

#### A. Blaster Certification

The Arkansas submission provides that the ADPCE will be responsible for the training, examination, and certification of blasters within the State in accordance with Part 850 and

§§ 850.13, 850.14, and 850.15 of the State regulations. The Director finds that the regulations as submitted on December 17, 1984, and as revised on May 10, 1985, are no less effective than the Federal blaster training, examination, and certification requirements at 30 CFR Part 850. Further, the Director finds that Arkansas' blasting examination as revised on November 1, 1985, adequately addresses the Federal requirements at 30 CFR Part 850.

#### General

The Arkansas submission included, along with the rules for blaster training, examination, and certification in Arkansas, narrative descriptions of the division of responsibilities under the program. The training narrative explains that ADPCE will conduct blaster training through the services provided by the Oklahoma Mining Training Institute (OMTI) of Krebs, Oklahoma. The course offered by OMTI will provide training and discussion of the practical applications of the requirements located at 30 CFR 850.13. The testing narrative describes the process by which ADPCE through the services of OMTI will administer the testing for blasting certification. The certification narrative describes the process by which ADPCE will administer the certification of blasters. ADPCE will, after the review of records, certify qualified applicants who successfully complete the training and testing program and who have demonstrated to the satisfaction of ADPCE's Surface Mining and Reclamation Division (SMRD) the experience and competence necessary in the handling and use of explosives.

#### Training

The Arkansas regulations at § 850.13 establishes requirements and procedures for the training of blasters which are no less effective than 30 CFR 850.13 which sets forth the minimum requirements for training of candidates for blaster certification.

#### Examination

Arkansas regulations at 850.14 establish the procedures and requirements for examination of blasters. The Arkansas blaster training program will require applicants to meet certain criteria before being certified. Some of the criteria include screening the applicants to ensure their competency in the use of explosives, verifying that applicants have adequate practical field experience necessary to accept the responsibility for blasting operations and that applicants are examined at a minimum, in the topics

set forth in 30 CFR 850.13(b). The State regulations are no less effective than the requirements of the Federal regulations at 30 CFR 850.14.

#### Certification

The Arkansas regulations at 850.15 provide that certification shall be for a period of three years and recertification of blasters will occur prior to the expiration of the current certification. With regard to suspension and revocation, the Arkansas regulations at 850.15 provide that the ADPCE, following written notice and an opportunity for a hearing, and upon findings of willful conduct, will have the authority to suspend or revoke the certification of a blaster during the term of the certification for various reasons. Reasons for such actions include: the non-compliance with any order of the ADPCE; unlawful use in the work place of, or current addition to, alcohol, narcotics, or other dangerous drugs; violation of any provision of the Federal or State explosive laws or regulations; and providing false information or misrepresentation to obtain certification. The Arkansas regulations at 850.15(d) require that certified blasters shall take every reasonable precaution to protect their certificates from loss, theft, or unauthorized duplication. Arkansas regulations at 850.15(e) provide ADPCE with the authority for requiring specific conditions for blasters to maintain their certification. The Director finds the provisions of the Arkansas regulations no less effective than the Federal regulations at 30 CFR 850.15.

#### B. Performance Standards for Use of Explosives

The Arkansas submission included proposed revisions to the Arkansas regulations governing the use of explosives. The Director finds the Arkansas regulations governing the use of explosives located at 816.61-S, 816.61-U, 816.62, 816.64, 816.65, 816.67 and 816.68, identified below, are no less effective than the Federal regulations at 30 CFR 816.61-68, 817.61-68.

- 816.61-S: General Requirements for Surface Mining Activities
- 816.61-U: General Requirements for Underground Mining Activities
- 816.62: Pre-Blasting Survey
- 816.64: Public Notice of Blasting Schedule, Surface/Underground Mining Activities
- 816.64-U: Public Notice of Blasting Schedule, Underground Mining
- 816.65: Surface Blasting Requirements
- 816.67: Seismographic Measurements
- 816.68: Records of Blasting Operations

#### IV. Public Comments

Pursuant to Section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), of those Federal agencies invited to comment, acknowledgments were received from the Department of Agriculture, Forest Service; the Department of the Army, Office of the Chief of Engineers; the Department of the Interior, U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Mines, National Park Service and U.S. Geological Survey; and the Department of Labor, Mine Safety and Health Administration. The comments were limited and did not identify any deficiencies in the proposed amendment. The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

#### V. Director's Decision

The Director, based on the above findings, is approving the December 17, 1984 amendment as revised on May 10, 1985. The Director is amending Part 904 of 30 CFR Chapter VII to implement this decision.

#### VI. Procedural Requirements

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

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

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

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

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

#### List of Subjects in 30 CFR Part 904

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

Date: November 25, 1985.

James W. Workman,  
Director, Office of Surface Mining.

#### PART 904—ARKANSAS

30 CFR Part 904 is amended as follows:

1. The authority citation for Part 904 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR Part 904.15 is amended by adding a new paragraph (c) as follows:

#### § 904.15 Approval of regulatory program amendments

(c) The following amendments submitted to OSM on December 17, 1984, and revised on May 10, 1985 are approved effective December 2, 1985 provided that they are adopted in the form submitted and reviewed by OSM: Revisions to Arkansas regulations governing the use of explosives, as contained in 816.61-S, 816.61-U, 816.62, 816.64, 816.64-U, 816.65, 816.67, and 816.68; and regulations for programs for blaster training, examination, and certification as proposed at 850.1, 850.5, 850.12, 850.13, 850.14 and 850.15.

#### § 904.16 [Amended]

3. 30 CFR 904.16 is amended to remove and reserve paragraphs (a) and (b).

[FR Doc. 85-28555 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-05-M

#### 30 CFR Part 936

#### Director's Findings on the Status of Oklahoma's Permanent Regulatory Program and Schedule for Returning Full Authority to the State of Oklahoma

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

**ACTION:** Final rule.

**SUMMARY:** On January 19, 1981, the State of Oklahoma received conditional approval of its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On March 10, 1983, the Director, OSM, notified Oklahoma's Governor that OSM had reason to believe that serious problems existed that adversely affected the implementation of Oklahoma's

approved regulatory program. After a public hearing and opportunity for public comment, the Director found that the Oklahoma Department of Mines (ODM) was not adequately implementing certain aspects of its approved program. On April 12, 1984, the Director, OSM, in accordance with the provisions of 30 CFR 733.12(f), announced his decision effective April 30, 1984, to institute direct Federal enforcement for those portions of Oklahoma's program that the State had not adequately enforced (49 FR 14674). With the substitution of Federal enforcement authority, the Director outlined a process by which the State could regain full authority for its inspection and enforcement program.

On July 29, 1985, a public hearing was held in Muskogee, Oklahoma to receive comments on the Oklahoma Permitting Plan and the Oklahoma Inspection and Enforcement Plan as submitted by the State in partial fulfillment of the Director's requirements as specified in his decision published in the April 12, 1984 Federal Register.

With his decision today, the Director is initiating those actions necessary to return to Oklahoma the authority that was suspended under 30 CFR 936.17(a). In making the decision being announced today, the Director has considered the information contained in the documents listed above, progress made by the State in resolving deficiencies, progress to date in accomplishing the remedial measures as required in 30 CFR 936.18 and comments received from the public concerning the Oklahoma program. The Director's decision provides for a phased resumption of authority by ODM so as to assure a smooth transition of the inspection and enforcement function from OSM to the State; in addition, it provides for assurances that the State's permitting and bonding processes will be in compliance with the State's approved program.

This notice sets forth the Director's findings regarding the status of those portions of Oklahoma's program for which remedial actions were required and establishes a schedule for full resumption of program authority by the State of Oklahoma.

This rule is being made effective immediately in order to expedite the actions required of the State to resume full authority for its approved permanent program.

**EFFECTIVE DATE:** December 2, 1985.

**ADDRESSES:** Copies of the Director's decision and the Administrative Record documents referenced in this notice are available for public inspection and

copying during regular business hours at:

Office of Surface Mining, Room 5124,  
1100 "L" Street, NW., Washington,  
D.C. 20240, Telephone: (202) 343-4855

Office of Surface Mining, Tulsa Field  
Office, 333 West Fourth Street, Room  
3014, Tulsa, OK 74103, Telephone:  
(918) 581-7927

Oklahoma Department of Mines, Suite  
107, 4040 N. Lincoln, Oklahoma City,  
OK 73105 Telephone: (405) 521-3659

**FOR FURTHER INFORMATION CONTACT:**

Raymond L. Lowrie, Assistant Director,  
Field Operations-West, Office of  
Surface Mining, Suite 1702, 1405 Curtis  
Street, Denver, CO 80202, Telephone  
(303) 844-2459

James Moncrief, Director, Tulsa Field  
Office, Office of Surface Mining, 333  
West 4th Street, Room 3014, Tulsa, OK  
74103, Telephone: (918) 581-7927

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 19, 1981, the Secretary of the Interior conditionally approved Oklahoma's program to administer and enforce the permanent regulatory program under SMCRA.

On March 10, 1983, the Director, OSM, notified the Governor of Oklahoma that he had reason to believe that the State was not adequately implementing its approved program to regulate surface coal mining and reclamation operations (OK-458). The Director cited problems in Oklahoma's implementation of its regulations in several areas including the designation of lands unsuitable for mining, permitting, inspection and enforcement, administrative procedures and records, and Oklahoma's ability to meet the Secretary's conditions on his approval of the program. A more detailed account of the Director's concerns can be found in the May 25, 1983 Federal Register (48 FR 23414).

On April 14, 1983, ODM responded to the Director's March 10, 1983 letter by providing written information regarding OSM's concerns (OK-461).

On April 17, 1983, ODM requested an informal conference with OSM under the provisions of 30 CFR 733.12(c) (OK-465). The Director agreed to Oklahoma's request, notified the public (48 FR 23414), and held an informal conference with ODM officials on June 15, 1983, in Oklahoma City. (See OK-483 for conference transcript).

At the informal conference, OSM requested that ODM provide additional information on many of OSM's concerns. ODM submitted additional written information on July 14, 1983 (OK-521), August 25, 1983 (OK-508), and November 8, 1983 (OK-522).

In July 1983, OSM's Annual Report of Oklahoma's Permanent Program was completed and submitted to Congress. The report included an evaluation of the functions and responsibilities of the Oklahoma Department of Mines (OK-506).

Meetings were held between OSM and ODM on October 5 and 12, and November 8 and 28, 1983, to discuss OSM's concerns and the State's progress in resolving issues (OK-517, OK-520, OK-522, OK-531).

On November 17, 1983, the Director announced in the Federal Register that he still had reason to believe that Oklahoma was not adequately implementing its approved program and scheduled a public hearing and public comment period (48 FR 52298-52300).

In addition to announcement of the public hearing in the Federal Register, announcements were made in a newspaper of general circulation in Oklahoma and in several newspapers serving population centers in the State's coal regions. Also, copies of the Federal Register notice were made available to the State's congressional delegation, citizens having expressed an interest in the State's enforcement of its regulatory program and whose names were available at OSM's Tulsa Field Office, all coal operators in the state, environmental groups, and the Oklahoma Mining and Reclamation Association (OK-537, OK-538, and OK-558).

The Director's decision to hold a public hearing and to solicit public comments was based on unresolved concerns in the following areas: permitting, State actions on petitions to designate lands as unsuitable for surface coal mining, inspection and enforcement, administrative procedures and records, and the Secretary's conditions of State program approval. A more detailed account of the Director's concerns regarding the status of Oklahoma's program can be found in the text of the announcement of the public hearing (40 FR 52298).

On December 21, 1983, OSM conducted a public hearing in Muskogee, Oklahoma or the status of Oklahoma's program. (See OK-551 for transcript). In addition to presenting testimony at the hearing, ODM submitted to OSM additional information concerning issues raised previously by OSM (OK-550). Also, during the course of the hearing, OSM requested that ODM provide additional information on many of OSM's concerns. A response date for submission of the requested information was set for January 10, 1984, and subsequently extended to January 11, 1984. The public comment period,

initially open through December 30, 1983, was extended through March 12, 1984 (49 FR 7560).

On January 11, 1984, ODM submitted additional information as requested (OK-554).

During the period between December 21, 1983, and March 12, 1984, a substantial number of comments were received from the public.

After having reviewed and considered all available information on Oklahoma's implementation of its program, including the hearing records, OSH's oversight findings, public comments and all other contents of the administrative record in these proceedings, the Director published the following determination in the Federal Register on April 12, 1984 (49 FR 14674-14689).

The Director determined that Oklahoma had made some progress in addressing certain problems identified by OSM in the State's implementation of its program. The Director determined that the steps taken by ODM to resolve the identified program deficiencies demonstrated the State's intent and capabilities in certain areas to administer its regulatory program as approved by the Secretary. For this reason, the Director found that withdrawal of program approval was not justified.

However, the Director also concluded that the reforms made by Oklahoma were not extensive enough nor progressing fast enough to ensure that surface coal mining operations in the State would be regulated in full compliance with SMCRA and the approved Oklahoma program. The State did not have adequate staff and resources to implement all aspects of its program as required. The Director determined that in order to ensure that the adverse effects of surface mining would be controlled as required under SMCRA and the approved State program, OSM must assume the responsibility for enforcement of parts of Oklahoma's program until the State was able to administer all segments of its program in accordance with the approved provisions. OSM also increased its oversight activities in the State and provided assistance to Oklahoma in the areas of permitting and bonding.

The Director determined that substituted Federal enforcement of the State's inspection and enforcement provisions would provide an opportunity for ODM, through a reallocation of its resources, to resolve program deficiencies in the areas of permitting and bonding. Also OSM required ODM to formulate and submit for approval a

plan to correct its inspection and enforcement problems and a plan to improve its permitting and bonding program.

In connection with his decision to substitute Federal enforcement for State enforcement, the Director also outlined a process for Oklahoma to follow in order to resume full program authority. During this interim period, and except as specified, the Secretary's approval of the Oklahoma program was not otherwise affected.

Following is a description of the actions resulting from the Director's decision.

## II. Actions Resulting from the Director's April 12, 1984, Decision

### A. Direct Federal Enforcement of State Program

Effective April 30, 1984, the Director suspended the authority of ODM to administer its inspection and enforcement program except as follows. With respect to enforcement actions initiated by the State prior to April 30, 1984, ODM retained authority to take the administrative actions necessary to process outstanding violations to a final disposition. This included the issuance of proposed assessments, the assessment of civil penalties, the holding of informal conferences, and the collection of penalties. However, the termination or vacation of any State enforcement action by ODM would not be effective until approved by OSM. In place of the State's suspended authority, OSM substituted direct Federal inspection and enforcement authority and assumed responsibility to implement, administer, and enforce the Oklahoma program requirements pursuant to the enforcement provisions of the Federal Act and regulations.

The Director's decision provided for:

1. OSM to conduct all inspections of coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal lands within the State, including bond release inspections. With respect to enforcement actions initiated by ODM prior to April 30, 1984, OSM assumed responsibility for conducting follow-up inspections at all sites with outstanding violations on or after the abatement dates specified in the State-issued notices of violation.

2. OSM to issue, modify, enforce and terminate notices of violation, cessation orders and show cause orders. With respect to enforcement actions initiated by ODM prior to April 30, 1984, OSM was to issue a failure-to-abate cessation order if the operator had not abated or did not abate the violation by the

abatement date set in the State-issued notice of violation. OSM was to issue a notice of violation for any violation observed by an OSM inspector which had not been previously cited by the State. OSM was to issue a cessation order for any condition or practice that created an imminent danger to the health or safety of the public, or caused, or could reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

3. OSM to impose civil and criminal sanctions, as appropriate, for violations of the State program.

4. OSM to promptly inform ODM of the results of all follow-up inspections conducted and of enforcement actions taken that pertained to enforcement actions initiated by ODM prior to April 30, 1984.

5. OSM to monitor permitting and bonding activities of ODM. If during its review or during the inspection of active operations, OSM determined that ODM issued a permit or took other actions with respect to a permit in violation of applicable State laws, regulations, procedures or approved program requirements, OSM was to:

- a. Notify ODM of the State program provisions that were not implemented properly and identify a date by which ODM must take corrective measures.

- b. If applicable, notify the permittee of actions that must be taken, including interim steps, to conform to all requirements of the approved program and to specify a reasonable time for the operator to take such actions.

6. All activities relating to administrative review of OSM enforcement actions to be carried out pursuant to 43 CFR Part 4.

### B. Increased Oversight/Assistance

The Director's decision of April 12, 1984, provided that ODM continue to be responsible for all permitting actions, including the review of applications and the approval of new permits and permit revisions. ODM remained responsible for processing all reclamation bond determinations, adjustments, and releases.

To ensure that the State's action in the above areas remained in compliance with the approved program, OSM intensified its monitoring of the State's activities and provided feedback to ODM regarding the adequacy of its administration of the above program functions.

The Director provided technical assistance to the State in correcting deficient permits, issuing new permits,

making bond calculations and making bond release determinations. For each bond release request received by ODM, OSM was responsible for making the bond release inspection and completing the appropriate State form to recommend approval or disapproval of the release of bond in whole or in part.

### C. Remedial Actions To Be Taken by the State

In order for the State to demonstrate its intent and capability to implement fully its approved program, the Director required the State to take certain remedial actions.

The remedial actions specified by the Director included:

1. Providing to OSM a list of all outstanding enforcement actions and the abatement date set for each violation cited.

2. Bringing to a final disposition, in accordance with its approved program, all enforcement actions initiated by the State prior to April 30, 1984.

3. Developing an inspection and enforcement plan that provides specific and adequate information regarding staffing, training and supervision, as well as provisions, policy statements, and other affirmative evidence to assure the Director that Oklahoma will be in full compliance at all times with the provisions of its approved program.

4. Advising OSM on a quarterly basis, of its progress in reevaluating existing permits, recalculating bond adequacy, reevaluating bond release actions, notifying operators of additional permit and bond information requirements, processing new permits or permit revisions and processing petitions to designate land unsuitable for mining.

5. Developing a permitting and bonding plan that provides specific and adequate information regarding permit review, bond calculations and bond release determinations, technical expertise, staffing and supervision to ensure the Director that Oklahoma's permitting and bonding functions are carried out in accordance with all approved program procedures.

6. Requiring that all new reclamation bonds and adjustments to existing reclamation bonds be made payable to both "The United States of America or the State of Oklahoma."

7. Requiring that Oklahoma ensure that all records, documents, correspondence, inspector logs, etc. are made secure and to supply copies of all documents to OSM upon request.

### Process for Resumption of State Authority for Inspection and Enforcement Operations

The Director outlined in the April 12, 1984 decision, a process for the State to follow to initiate resumption of State authority for its suspended inspection and enforcement operations. In order for the State to resume enforcement of any portion of its inspection and enforcement provisions, the State had to first, implement and show adequate progress in addressing the remedial actions specified by the Director and second, formally petition the Director for the return of State authority.

Prior to making a decision to allow the State to resume responsibility for any portion of its inspection and enforcement operations, the Director was to schedule a public comment period and hold a public hearing as outlined under 30 CFR 936.19. Then, on the basis of available information, the Director would determine if the State should resume enforcement of a portion of its inspection and enforcement operations.

#### D. Status of Actions to Reinstate Program Authority

On November 2, 1984, ODM submitted to OSM preliminary copies of the State's Permitting and Inspection and Enforcement Plans. On January 18, 1985, OSM received from ODM a document titled, *Petition to Resume State Inspection and Enforcement Actions* (OK-649), which formally petitioned the Office of Surface Mining to return full program authority to the State as required by 30 CFR 936.19.

On May 13, 1985, ODM submitted to OSM a document titled *Oklahoma Permitting Plan* (OK-670). The plan addressed Oklahoma's systems and procedures for processing permit applications, calculating bond amounts, releasing or forfeiting reclamation bonds and the hiring and training of qualified staff as required by 30 CFR 936.18.

On June 7, 1985 ODM submitted to OSM the *Oklahoma Inspection and Enforcement Plan* (OK-671). The plan addressed procedures for implementing and administering the various components of the State's inspection and enforcement operation as required by 30 CFR 936.18.

On July 29, 1985, a public hearing was held in Muskogee, Oklahoma, to receive comments on Oklahoma's plans. The public was provided the opportunity to comment on the material submitted by Oklahoma. The public comment period closed August 2, 1985.

All written comments have been made a part of the Administrative Record,

either by inclusion in the transcript of the public hearing, or as individual comments received by OSM during the comment period. Also, all documents on file in the OSM Tulsa Field Office relating to the Oklahoma permanent regulatory program since July 20, 1981, obtained in the ordinary course of OSM business from the public, OSM Tulsa Field Office employees, and ODM or other government agencies, excepting internal memoranda (including telephone call notes, internal meeting notes, decision-making documents, and advice of counsel) have been incorporated into the Administrative Record.

All Oklahoma Administrative Record documents from OK-414 (April 28, 1982) until the date of the publication of this notice are being considered in this rulemaking.

#### E. Director's Findings on the Status of the Remedial Actions Required of ODM

On the basis of the record described above, the Director makes the following findings pursuant to 30 CFR 936.19.

1. The Director finds that ODM did provide to OSM a list of all outstanding enforcement actions initiated by the State prior to April 30, 1984. The list included the date set for the abatement of each violation cited.

2. The Director finds that ODM has taken certain actions to bring to a final disposition those enforcement actions initiated by the State prior to April 30, 1984. Operators who had been cited with violations by ODM inspectors were, when appropriate, issued proposed civil penalty assessments and ODM has conducted all assessment conferences requested by the operators for violations cited prior to April 30, 1984.

ODM has addressed 163 violations through the holding of administrative hearings and has taken further measures to resolve those cases by conducting formal hearings on four of the violations, by entering into negotiations with two operators which, if successful, will address 152 violations and by scheduling formal hearings for the remaining seven violations.

3. The Director finds that ODM has substantially increased the size of its inspection force and has provided the staff with training and guidance adequate to implement the inspection and enforcement provisions of its approved program. The Director also finds that the *Oklahoma Inspection and Enforcement Plan* submitted to OSM on June 7, 1985, provides the necessary guidance to the State to carry out an effective inspection and enforcement program. However, additional

clarification is needed to minimize the potential for confusion and misunderstanding regarding ODM policy, guidelines, procedures, and forms that are presently being implemented and enforced by the ODM as part of its approved program.

4. The Director finds that ODM has submitted quarterly reports to OSM for the period of May 1, 1984, through September 30, 1985. The quarterly reports have tracked the State's progress in five areas. These five areas and the State's progress are listed below:

a. *Reevaluating Existing Permits, Including Bond Adequacy.* In June 1984, OSM provided to ODM a list of forty-one permits that required some degree of repermitting action. All forty-one permits were for operations that were actively removing coal in 1984. The permits included initial regulatory program permits and permanent program permits. The Director finds that of this group, initial reviews have been completed on all forty-one permits; however, only two of the forty-one have been repermited under permanent program standards.

In June 1984, ODM identified twenty-four permits for operations in which coal had been removed after March 20, 1982, and were currently in active reclamation. Five of the twenty-four permits are initial regulatory program permits. Also, in addition to the twenty-four permits identified above, ODM has permitted five permanent program operations that are inactive but in which mining could be reactivated at any time. The Director finds that although ODM has reviewed all of these permits, it has not completed repermitting, and reevaluation of the bonds for these operations.

b. *Reevaluation Bond Release Actions Since July 20, 1981.* ODM has undertaken a major review effort in an attempt to improve its method of bond release and to ensure bond release consistency among permitted operations. ODM's review included: (1) An evaluation of fifty randomly selected initial regulatory program bond release actions and (2) an evaluation of all permanent program bond release actions since July 20, 1981. The Director finds that ODM has taken positive steps to improve its bond release procedures in order to bring it into compliance with the approved program.

c. *Notifying Operators of Additional Permit Application and/or Bond Information Requirements.* ODM has completed a review of over seventy permits potentially requiring permit application updates and/or recalculated and adjusted bonds. ODM's permit

review combined the technical evaluation with mine-site investigation. ODM is currently in the process of preparing and forwarding deficiency letters to the appropriate permittees regarding permit updates and bond adjustments. The Director finds ODM's action to date to be consistent with program requirements. Because of the critical nature of this requirement and the amount of work yet to be done to assure compliance, the Director will continue to monitor ODM progress in this area.

d. *Processing New Permits or Permit Revisions.* From April 30, 1984 through April 30, 1985, ODM reviewed and approved eleven new permit applications. OSM reviewed seven of the eleven permit applications approved by ODM utilizing its new staff and revised permitting procedures. The State has made substantial progress in improving its process for issuing permits in accordance with the approved program. Although OSM's evaluation identified some technical deficiencies in the recently approved permits, the Director is encouraged by the level of improvement shown by ODM during the past year and has reason to believe that such progress will continue. The Director will continue to closely monitor this aspect of the Oklahoma program.

e. *Processing Lands Unsuitable Petitions.* During the period April 30, 1984 through April 30, 1985, ODM properly reviewed two previously rejected petitions to declare lands unsuitable for surface coal mining. OSM has reviewed ODM's procedures and finds that ODM met the requirements of the Oklahoma program in processing the two petitions. ODM has received recently a new petition to declare lands as unsuitable for surface coal mining. Although a substantive review has not yet been completed, OSM finds that the State's initial processing of the petition to be in accordance with provisions of the approved Oklahoma program. The Director finds that the State has implemented the appropriate procedures and has sufficient qualified staff to properly process petitions to designate lands as unsuitable for mining.

5. The Director finds that the document submitted to OSM on May 13, 1985, titled *Oklahoma Permitting Plan* ensures that:

- ODM will review permit applications in accordance with all approved program procedures;
- ODM will make all bond calculations and bond release determinations in accordance with approved program procedures;
- ODM staff involved in the review of permit applications will have the

expertise in those technical disciplines necessary to review permit applications in accordance with approved program requirements;

d. ODM's technical services section will be adequately staffed with a qualified full-time supervisor, and that adequate staff with appropriate technical skills be added commensurate with the permitting workload.

6. In the April 12, 1984 decision, OSM required that all new bonds and adjustments to existing bonds be made payable to both "the United States Government or the State of Oklahoma." On April 27, 1984, ODM petitioned OSM to rescind the requirement on the basis that it would be in violation of Oklahoma law. The Director finds that inasmuch as the purpose of the requirement was to enable OSM to obtain the proceeds of bond if forfeiture were required while OSM was the regulatory authority, the action being taken today renders the requirement moot.

7. The Director finds that ODM has implemented procedures to ensure the security of all records, documents, inspector logs, and other information and has supplied, upon request, copies of all documents to OSM.

### III. Director's Findings on the Status of Oklahoma's Permanent Regulatory Program

The Director identified in the April 12, 1984 *Federal Register* several deficiencies relating to Oklahoma's implementation of its approved program. Generally, the Director cited implementation problems associated with four areas of Oklahoma's permanent program: Permitting, bonding, lands unsuitable for mining, and inspection and enforcement. Addressed below are summaries of the deficiencies and the Director's findings related to the State's progress in resolving those deficiencies.

#### A. Permitting

Prior to April 12, 1984, OSM had found Oklahoma's permitting program to be deficient in the following areas: The State was approving permit applications that did not contain all the information required by the approved State program; the State's written findings following permit application review were sometimes based on inadequate or unrepresentative data and were thus inaccurate; the State was regularly approving improper permit revisions, many of which were approved after mining had been completed; the State had not taken the necessary actions to repermit initial regulatory program permits or to update inadequate

permanent program permits to assure that all mining was being done under the protection of permanent program performance standards; and the State had improperly issued permits to applicants having unabated violations.

Since April 30, 1984, ODM has developed and implemented procedures to improve the quality of information required to be provided by the applicant as part of the permit application. In August 1984, ODM developed a revised permit application form and a permitting handbook to be used by applicants in the preparation of permit applications. ODM conducted several informational meetings and workshops to familiarize the coal industry with the revised permitting procedures and applicant responsibilities associated with completing the revised application form. These efforts have resulted in permit applications that more accurately reflect the on-site conditions prior to permit issuance and that more adequately tie the mining and reclamation plans together.

During the summer of 1984, ODM reorganized its technical services section. Training has been provided to ODM's technical services staff which conducts permit reviews. The technical services section now consists of a full-time supervisor and a technical support staff of up to seven persons that are adequately trained and have the technical skills necessary to perform the permit review function.

Prior to April 30, 1984, very few permit revisions were being made available for public review and comment. ODM has since developed and is currently using guidelines for differentiating between major and minor permit revisions and is requiring major revisions to be made available for public review and comment. During the past year approximately thirty percent of all permit revisions have been classified as major revisions and have been made available to the public. OSM has made an informal review of a sample of ODM's approved revisions and has found that the technical requirements are being adequately addressed by the operators and are being properly reviewed and processed by ODM. Although progress is being made, ODM has identified some remaining deficiencies associated with Oklahoma's processing of permit revisions.

OSM has determined that large a percentage of permit revision applications concern changes that already have been made by the permittee. Some of the approved after-the-fact revision applications have



involved large permanent impoundments constructed a year or more before submission of the revision application. Since April 30, 1984, ODM also issued permits to two applicants having unabated violations.

Of the seventy applications identified by OSM as requiring additional review and updating of information, two operations mining under approved initial regulatory program permits and five operations mining under inadequate State permanent program permits were identified as having the highest priority for reevaluation and repermitting by ODM. ODM has completed its reevaluation and has issued permanent program permits for two of the seven high priority applications discussed above. ODM has completed the technical adequacy review of the remaining five high priority permit applications as well as the review of sixty-three other permit applications that require updating. However, responses by the applicants to technical deficiency questions were not being provided in a timely fashion. ODM has reacted by assigning all non-respondents a response deadline. Since ODM took this action, responses to forty-nine of sixty-three deficiency letters have been received. Of the forty-nine permit applications for which responses have been received, nine were found to be technically adequate. The updating of these permits and the repermitting effort is continuing on these operations.

#### Summary Permitting Findings

The Director finds that through an internal realignment and an increase in permitting staff, that the State is capable of correcting these problems through the use of an improved permit application form and permitting handbook, improved attention to permitting regulations, conducting a more thorough evaluation of each permit application, and requiring appropriate additional information from permittees. On October 31, 1985, in order to assure the continuation of the corrective actions already initiated, ODM entered into an agreement with OSM to reevaluate and revise permits for active and temporarily closed operations with an emphasis to be placed on those permitting deficiencies identified in OSM's 1985 Annual Evaluation Report and to place a high priority on those operations that have not received a permanent program permit. After reevaluation, ODM has agreed to require additional reclamation bond for those active and temporarily closed operations that are found to be underbonded. ODM has assured OSM that it

will implement procedures to prevent the approval of after-the-fact revisions to permits and to prevent the recurrence of approving inappropriate incidental boundary changes. Also, ODM has agreed to implement a procedure to prevent the issuance of permits to operators with outstanding enforcement actions.

Because of the steps already taken by the State to improve its permitting process and the positive results already observed by OSM and because of the agreement signed by ODM on October 31, 1985 that assures the continuation of certain corrective actions, the Director finds that Oklahoma has demonstrated its capabilities to implement, administer, maintain, and enforce the permitting requirements of its approved program and is in the process of correcting previously identified deficiencies.

OSM will continue to provide assistance in the implementation of the permitting provisions of the Oklahoma program. OSM will continue to monitor Oklahoma's permitting program through oversight and will reevaluate the need for assistance periodically.

#### Bonding

With regard to its evaluation of bonding procedures in Oklahoma, OSM found that ODM had not established a bonding program that would ensure that reclamation bonds are consistently calculated and posted in amounts necessary to ensure proper reclamation of land affected by coal mining. OSM also found that ODM had not met all of its regulatory obligations for processing bond release applications. Some typical problems associated with bond release activities in Oklahoma involved the release of bond on permits with insufficient reclamation and acceptance by ODM of incomplete bond release applications.

Since April 30, 1984, ODM has identified forty-four abandoned permit areas involving eighteen coal operators. Notices of forfeiture have been sent to all eighteen operators and their sureties and ODM has collected \$250,738. Many of the eighteen coal operators are currently in bankruptcy with many of these permit areas being underbonded. ODM has requested the State Attorney General's office to initiate forfeiture proceedings against some operators. ODM has also requested a supplemental appropriation in order to fund additional legal staff of its own to handle forfeiture proceedings. ODM has also stated its intention to file suit against companies that forfeit and are underbonded so as to be able to recover additional reclamation monies needed to ensure adequate reclamation.

Since April 30, 1984, ODM has requested bids for reclamation on three permit areas for which bond has been forfeited. All submitted bids were considerably in excess of the amount available to ODM for reclamation. OSM will provide assistance to ODM in evaluating these three permit areas in an attempt to develop reclamation alternatives commensurate with available reclamation bond amounts.

The April 12, 1984, Federal Register noted that many current mining operations were underbonded. OSM directed ODM to review existing permits and increase the bond where appropriate. ODM decided to correct this deficiency by recalculating individual bonds as bond release applications were received for processing. ODM implemented this plan and began recalculating reclamation bonds as release applications were received. In those cases where the operation was found to be underbonded, ODM purposes to limit bond releases following the completion of Phase I reclamation to approximately 25% rather than the upward limit of 80% as allowable under Oklahoma regulation. Because of the reduced amount of bond to be released, several operators requested public hearings to appeal ODM's decision.

An Oklahoma hearing officer ruled that 60% of the bond must be released at the completion of Phase I reclamation. ODM's current policy is to release 60% of the bond upon completion of Phase I reclamation and then recalculate the bond and request additional bond if necessary. ODM has reviewed and recalculated the bond amounts for two permitted operations. In both cases the present bond amounts have been determined to be insufficient; however, ODM has not yet required either operator to post the necessary additional bond.

In late 1984 and early 1985, ODM selected a random sample of fifty bond release actions from over 450 initial regulatory program bond release actions taken since July 20, 1981. Although ODM identified some procedural inconsistencies, in general it found the reclamation to be satisfactory. The purpose of this bond release review was to determine if release problems existed and, if so, to try to avoid similar problems in the future. Based in part on its findings, ODM has drafted a set of reclamation bond release criteria and guidelines for use in Oklahoma.

#### Summary Bonding Findings

The Director finds that ODM has taken some action to establish criteria

and guidelines governing bond release actions. Mine operators and their contractors are required to use them in preparing bond release applications. The Director finds that although a number of improvements are evident in Oklahoma's bonding program, there still exist some problems, particularly in the areas of bond setting and bond forfeiture. On October 31, 1985, in order to assure the continuation of the corrective actions already initiated, ODM entered into an agreement to prepare and provide to OSM by December 16, 1985, lists identifying the current backlog of bond forfeiture actions and of injunctive relief proceedings regarding State-issued violations and a plan including necessary commitments from the Attorney General's office as to how Oklahoma intends to address this backlog. Also, Oklahoma has assured OSM that it will calculate and set bonds adequate to allow third-party reclamation and that it will process bond forfeiture actions in a timely manner. The requirement to recalculate bonds to assure third-party reclamation and require additional bond as necessary must be met for each active and temporarily ceased operation prior to the resumption of inspection and enforcement authority by ODM.

#### Lands Unsuitable Petitions

Prior to April 12, 1984, OSM found that ODM had improperly rejected two petitions to declare land unsuitable for surface coal mining and had improperly issued a permit for an area subject to a timely filed petition. A State court enjoined mining under the permit and ODM subsequently reactivated both petitions. Since April 30, 1984, ODM conducted a public hearing to evaluate the improperly rejected petitions. The hearing examiner determined that the petitioned area was not unsuitable for surface coal mining. ODM accepted the hearing examiner's ruling and issued a permit for surface coal mining for that area. OSM has reviewed ODM's actions in the matter and found that ODM had properly reviewed the previously rejected petitions and that it had met the requirements of the Oklahoma program in processing petitions to declare lands as unsuitable for surface coal mining. ODM has recently received another petition to declare lands as unsuitable for surface coal mining. Although no substantive review has yet been undertaken, OSM has determined that the State's initial processing of the petition to be appropriate and in accordance with the approved Oklahoma program.

#### Summary Findings Regarding Lands Unsuitable Petitions

The Director finds that since reactivating the two lands unsuitable petitions, the State has acted according to its regulations in processing the petitions and in rendering a decision. The Director intends to closely monitor the State's actions in processing the recently received petition. The Director finds that the State has shown the ability to adequately review petitions and the expertise needed to perform the technical evaluations necessary to arrive at an informed decision. Therefore, the Director finds that Oklahoma has demonstrated its capability to implement, maintain, and enforce its program regarding the processing of petitions to declare lands as unsuitable for surface coal mining and has corrected previously identified deficiencies.

#### Inspection and Enforcement

Prior to April 12, 1984, OSM found that since receiving State program approval, ODM had failed to meet the required frequency for complete and partial inspections. Also, ODM had failed to cite an inordinate number of observed violations and had not issued adequate failure-to-abate cessation orders. OSM found that although ODM was responding in a timely manner to OSM-issued ten-day notices, it had not fully demonstrated an intent to assure compliance with the State laws and regulations through appropriate actions to abate all serious violations brought to its attention by ten-day notices.

Also, OSM found that the State had not consistently assured compliance with the provisions of the approved program through appropriate and timely follow-up actions to ensure that observed violations are abated. In addition, OSM's evaluation provided evidence that Oklahoma had not fully defended its inspection and enforcement actions through the appeals process. Additionally, ODM had granted civil penalty hearings without requiring operators to place the amount of the proposed penalty in escrow and had not consistently ensured timely assessment and collection of civil penalties.

OSM found that although ODM had made improvements in some aspects of its inspection and enforcement program, serious deficiencies continued to exist. On April 12, 1984, on the basis of findings made from data collected by OSM from an examination of State records, results of public hearings, public comments, and other pertinent information, the Director concluded that ODM was not adequately meeting the

inspection and enforcement requirements of the approved State program. As a result of this finding, OSM instituted effective April 30, 1984, direct Federal enforcement of the inspection and enforcement functions of the Oklahoma approved program.

Since April 30, 1984, in accordance with the remedial actions specified by OSM, ODM submitted to OSM a plan to resume full authority for implementing the State's inspection and enforcement operations. That plan included specific information regarding staffing, training and supervision, and provisions, policy statements, and other affirmative evidence sufficient to assure the Director that when authority is returned to Oklahoma, the State will be in full compliance at all times with the provisions of its approved program. Additionally, on January 18, 1985, OSM received from ODM a petition requesting OSM to consider returning authority to the State to resume inspection and enforcement operations. Following a review of the inspection and enforcement plan submitted by ODM and other actions that demonstrate the State's intent and capability to implement, administer, maintain, and enforce its program, the Director announced on July 3, 1985, a public comment period and scheduled a public hearing (50 FR 27461). The public hearing was held July 29, 1985, and the comment period closed on August 2, 1985.

#### Summary of Inspection and Enforcement Findings

The Director finds that the State has met its obligations as outlined under 30 CFR 936.18 as they pertain to remedial actions toward restoration of the State's inspection and enforcement program. Specifically, the State submitted to OSM, within the prescribed timeframe of twelve months after April 30, 1984, a plan to resume full authority for implementing the inspection and enforcement aspects of its approved program. The Director finds that the State's plan demonstrates a commitment to hire a sufficient number of qualified inspection and enforcement personnel and that the State has, in fact, established and filled additional positions sufficient to be able to fully comply with all inspection and enforcement requirements. The Director finds that the State plan demonstrates that new inspection and enforcement personnel will be trained and adequately supervised and that the State has, in fact, provided a satisfactory level of training to assure OSM that its new personnel will be able

to implement all inspection and enforcement requirements of the approved program. The Director finds that although the State's plan does include many of the provisions, policy statements and other affirmative evidence necessary to assure the Director that the State will be in full compliance at all times with the provisions of its approved program, there is the potential for confusion because of procedural changes and modifications to policy that have occurred since the initial submission of the plan. On October 31, 1985, in order to minimize this potential for confusion and misunderstanding, ODM entered into an agreement to identify or provide to OSM by December 16, 1985, copies of policy statements, guidelines, procedures, and forms that are presently in use; policy statements, guidelines, procedures and forms that have been changed since submission of the plans; and policy statements, guidelines, procedures and forms that are being proposed, including timeframes for projected implementation. Also, within the October 31, 1985 document ODM has agreed that whenever inspection and enforcement authority for particular permitted areas is returned to the State, inspections on those permitted areas are to be conducted jointly by ODM and OSM on a monthly basis for the first three months.

The Director finds that the State has, in writing, properly petitioned OSM to return inspection and enforcement authority to the State. The Director has reviewed the State's inspection and enforcement plan, quarterly reports submitted to OSM as required by 30 CFR 936.18, and all other pertinent information including information from the public regarding the State's initiatives to resume authority for its inspection and enforcement operation. As a result of this review, the Director finds that Oklahoma has demonstrated its capability to implement, administer, maintain, and enforce the inspection and enforcement requirements of the approved program and has corrected or is in the process of correcting previously identified deficiencies.

#### IV. Disposition of Comments

During the public hearing and public comment period, a substantial number of comments were received from the public, government agencies and other interested parties. All of these comments were reviewed and considered by the Director in making the decision announced today. This notice provides a summary and response to the issues raised by the commenters. In arriving at his decision, the Director

considered all comments in conjunction with the testimony heard and documents received on or before the close of the public comment period.

1. OSM received numerous comments recommending that OSM terminate its direct enforcement of the inspection and enforcement provisions of the approved State program. Some commenters provided no rationale or justification to support their requests that full program authority be returned to ODM. Several other commenters urged OSM to return full authority to ODM in order for it to administer the inspection and enforcement provisions based on ODM's compliance with the remedial action requirements placed upon it by the Director in his decision of April 12, 1984. The remaining commenters who supported full resumption of program authority by ODM, identified specific improvements and accomplishments that have been implemented by ODM since the Director's April 12, 1984 decision. The following were cited as areas of improvement which several commenters felt supported the full resumption of authority by ODM: increased funding for ODM activities, increased staffing levels for ODM, provision of training for ODM staff members, revised permitting procedures, revised bond calculation and bond release procedures, creation of two new field offices and revised procedures for conducting onsite inspections.

The Director acknowledges that positive accomplishments have taken place at ODM since his decision of April 12, 1984. Specifically, the Director recognizes the commitment by the Oklahoma legislature in authorizing additional staff positions for ODM and in providing additional funding in order for ODM to fill the newly authorized positions. The Director also finds the training provided to ODM personnel since his decision of April 12, 1984, to be acceptable. The Director believes that well-trained State mine inspectors are essential to the successful transition of the inspection and enforcement functions from OSM to the State. The placement by ODM of highly skilled inspectors in the field will greatly reduce the potential for OSM initiated enforcement actions that may otherwise result. However, the recently hired inspectors lack practical field experience that can only come from hands-on inspection activity under the guidance of an experienced reclamation inspector.

For this reason, Oklahoma, as specified in the agreement signed October 31, 1985, will be required to conduct the first three inspections on all

active and temporarily closed sites for which inspection authority has been returned jointly with experienced OSM inspectors. The Director believes that this approach will provide OSM inspectors with an opportunity to evaluate State inspectors in the performance of their duties for both complete and partial inspections as well as provide the OSM inspectors adequate time and opportunity to provide training assistance to the Oklahoma inspection staff, if appropriate.

With regard to the creation of two new ODM inspection field offices, the Director supports the State's actions taken to date. OSM will monitor the performance of the staffs at the two newly created ODM field offices, located in Krebs and Miami, Oklahoma, as part of its annual evaluation of the State's performance in implementing its approved program.

In response to the numerous commenters who urged OSM to return full program authority to ODM based solely on the State's submission of the petition and the permitting and inspection and enforcement plans as required by 30 CFR 936.19, the Director acknowledges receipt of these documents and directs the commenters' attention to the specific findings of this rulemaking which address the resumption of program authority by the State of Oklahoma.

2. One commenter stated that it was his belief the conditions for resumption of program authority had been met by ODM. He then urged OSM to resume full program funding to the Oklahoma Conservation Commission (OCC), the agency that administers Oklahoma's abandoned mine land program, in order that many of the hazardous abandoned mine sites in the State could be reclaimed by the OCC. The Director acknowledges that ODM has made progress in resolving identified deficiencies in several program areas, most notably staffing, permitting procedures and bond calculating procedures. The Director, based on the progress shown by ODM in addressing the identified deficiencies and commitments agreed to by ODM on October 31, 1985 agrees with the commenter. The Director would like to bring to the attention of the commenter the Title IV funds that were recently awarded to Oklahoma. On September 18, 1985, OCC was awarded \$434,560 for construction of previously approved projects. Then on November 5, 1985, OCC was awarded \$1.3 million for construction of FY 1986 projects. The Director, in his decision of April 12, 1984, specified that while no additional

grant funds would be provided for initiation of new AML projects, OSM would continue to review the status of uninitiated, high-priority proposed projects. It should be noted that in July 1984 OSM provided funding for abandoned mine lands reclamation projects on two sites that posed an immediate threat to the citizens of Oklahoma. It is OSM's continuing policy to give these types of property the attention necessary to protect human health and safety and the environment.

3. One commenter urged that a phased-in approach be taken in returning inspection and enforcement authority to the State. The Director agrees with the commenter and has provided, within the decision being published today, a schedule that must be followed by the State of Oklahoma before full authority is returned (See OK-710). The Director's schedule requires the State to achieve certain benchmarks in critical regulatory areas before resumption of full State authority.

4. Several commenters expressed concern regarding an operation currently mining within the exemption allowed under Section 701 (28) of SMCRA for the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 percent of the tonnage of minerals removed for commercial use or sale. The commenters then urged OSM to conduct an investigation into the situation. The Director agrees that the issue needs to be resolved and is considering action to be taken. The Director also notes that a civil suit has been filed in the U.S. District Court for the Northern District of Oklahoma (85-C-964 C, October 22, 1985) seeking to require the operator to cease coal production without a permit.

5. Two commenters expressed concern over the lack of specific provisions in the Oklahoma Permitting Plan and the Oklahoma permanent program regulations relating to an applicant's submission of fish and wildlife information as required by the Federal regulations. Both commenters cited the October 1, 1984 ruling of U.S. District Court Judge Flannery, *In re: Permanent Surface Mining Regulation Litigation (II)* in which Judge Flannery reinstated the provisions of 30 CFR 779.20 and 780.16 which were suspended on February 26, 1980. These 1979 rules require each surface mining permit application to contain specific fish and wildlife resources information, including a study of fish and wildlife habitat within the proposed mine plan area and those portions of the adjacent area where effects on such resources could reasonably be expected to occur. OSM,

on July 15, 1985, provided to ODM a partial list of State regulations that were determined to be less effective than the Federal regulations in light of OSM's regulatory reform effort and the three U.S. District Court decisions. The July 15, 1985 list provided to Oklahoma, did not address the permit application requirements relating to fish and wildlife information found at 30 CFR 779.20 and 780.16. The Director is aware of the deficiency identified by the commenters and intends to bring it to the State's attention at the same time the State is notified of required revisions made necessary by the U.S. District Court's Round III decision of July 15, 1985. The fish and wildlife information provisions will be handled through the routine State program amendment process.

6. The same two commenters also recommended that ODM employ a wildlife biologist/ecologist to address fish and wildlife issues as well as participate in the permit review process. While the Director recognizes the advantages of ODM employing a staff biologist, it is beyond his authority to mandate the hiring of individuals, at the State level with specific experience or educational training. While the Director encourages ODM to develop in-house expertise in the area of fish and wildlife biology, he also encourages one of the commenters, the U.S. Fish and Wildlife Service, to reevaluate the Memorandum of Understanding (MOU) between itself and the ODM, and if necessary, amend the agreement so as to ensure adequate involvement by that agency in the permitting activities as they pertain to fish and wildlife matters in Oklahoma.

7. One commenter requested that OSM conduct a special study in order to evaluate ODM's compliance with the fish and wildlife provisions of its approved program. The commenter urged completion of the analysis before the Director announces his decision concerning the *Oklahoma Permitting Plan*. The Director disagrees with the commenter's request for several reasons. The first is that OSM has just completed this year's program evaluation in the State of Oklahoma. OSM's evaluation has identified problems similar to those expressed by the commenter with respect to fish and wildlife issues. Also, the *Oklahoma Permitting Plan* provides a basis for assurance that permitting actions will be in compliance with the fish and wildlife provisions of the approved Oklahoma program. OSM will coordinate with the U.S. Fish and Wildlife Service to continue evaluating the implementation of the fish and wildlife provisions contained in that document. The

Director believes that for the above reasons, the concerns of the commenter will be adequately addressed without initiating a special study.

8. One commenter stated that material he had received and reviewed did not specifically address operator responsibility concerning damage to property and structures. The commenter then recommended strongly that preblast surveys be conducted in order to be able to determine more accurately the extent of damage if any. The Director agrees with the commenter that protection and restoration of property and structures is essential. Further, the Director directs the commenter's attention to section 816.62 of the Oklahoma regulations that requires operators to conduct preblast surveys if requested by a resident to do so. The Director's remedial action requirements of April 12, 1984 required from the State, submission of plans addressing permitting and inspection and enforcement; it was not intended that the two plans address in detail, every component of Oklahoma's approved program. Therefore, the Director finds those program areas addressed by the commenter to be no less effective than the Federal provisions.

9. One commenter expressed concern about the revised bond calculation procedures contained in the permitting plan and the impact of those provisions upon the coal industry. The commenter then requested a series of cooperative meetings between representatives of the bonding industry, the Oklahoma coal industry, the Oklahoma Department of Mines and the Office of Surface Mining to discuss bonding issues in Oklahoma.

OSM has reviewed the revised bond calculation procedures contained in the State's permitting plan and find them to be adequate in light of the past deficiencies associated with bond calculations, and in concert with the approved Oklahoma regulations. However, the Director encourages such a meeting if it would result in a meaningful exchange of ideas and suggestions concerning this important subject.

#### V. Director's Decision

Having reviewed and considered all available information on ODM's implementation of the Oklahoma program, including the hearing record, OSM's oversight findings, public comments and all other contents of the administrative record in these proceedings, the Director has made the following determinations.

Oklahoma has corrected or initiated the necessary action to address the

problems identified by OSM in the State's implementation of its program. ODM has agreed to identify or provide to OSM by December 16, 1985, certain information regarding past, present, and projected policy statements, guidelines, procedures and forms; and it has also agreed to prepare and provide by the same date, lists identifying the current backlog of bond forfeiture actions and of injunctive relief proceedings regarding state issued violations and a plan including necessary commitments from the Attorney General's office as to how the State intends to address this backlog.

The Director has determined that upon successful completion of the items in the above paragraph, OSM will return to ODM on January 1, 1986, inspection and enforcement authority for all mines where mining has been completed or the site has been abandoned and no further mining at that site is intended by any person. OSM will provide to ODM by December 15, 1985, a list of Oklahoma's permits in the above categories.

ODM has also agreed to reevaluate and revise permits for active and temporarily closed operations with emphasis being placed on those relevant permitting deficiencies identified in the 1985 Annual Evaluation Report and place a high priority on those operations that have not received a permanent program permit. After reevaluation, ODM has agreed to require additional reclamation bond for those active and temporarily closed operations that are found to be underbonded.

Additionally, the Director has determined that beginning after January 1, 1986, OSM will return to ODM inspection and enforcement authority for individual active and temporarily closed operations for which ODM has reevaluated and revised the permits and reclamation bonds in accordance with the agreement signed by ODM on October 31, 1985 (OK-710). In order to maintain clear and well defined lines of responsibility regarding the authority to conduct inspections on active and temporarily closed operations, the Director, OSM, has instructed the Director of the Tulsa Field Office to provide to ODM a formal notification of the transfer of inspection responsibility upon the completion of the affirmative demonstration that a reevaluated permit is in compliance with the approved program. Until such time as formal notification is received by ODM, inspection and enforcement authority will remain the responsibility of OSM.

OSM will continue to be responsible for any outstanding Federal enforcement actions taken since April 30, 1984, including any necessary follow-up

inspections on those operations for which inspection and enforcement authority has been returned to ODM. To avoid duplication and placement of an undue burden on operators, ODM will not be required to pursue additional enforcement actions on violations previously cited by OSM.

Whenever inspection and enforcement authority for particular operations is returned to ODM, inspections on those operations are to be conducted jointly by OSM and ODM inspectors on a monthly basis for the first three months.

Upon completion by ODM of the affirmative demonstrations and resumption of inspection and enforcement authority for all the individual permits as described above, the Director will initiate procedures to terminate the 30 CFR 733 action in Oklahoma.

Until termination of the 30 CFR 733 action, the Director is requiring that ODM continue to provide to OSM quarterly reports.

#### Funding

In the April 12, 1984 *Federal Register*, the Director announced that because of deficiencies associated with its regulatory program, no additional grant funds would be provided to Oklahoma for initiation of new projects under the State's abandoned mined land (AML) program. The Director also indicated that OSM would review the status of any uninitiated projects currently funded under one or more AML construction grants as well as any proposed high-priority projects that posed an immediate threat to the citizens of Oklahoma.

OSM funded reclamation of two such projects in July 1984 by awarding approximately \$1.3 million to the Oklahoma Conservation Commission (OCC), the agency responsible for administering Oklahoma's AML program. On September 18, 1985, OSM awarded to OCC a grant in the amount of \$434,560 for construction of two previously approved high-priority projects. As previously discussed, the Director acknowledges the progress made to date by ODM in resolving identified deficiencies in the areas of permitting, bonding, inspection and enforcement, and lands unsuitable designation. The Director, based on the progress demonstrated by ODM and the commitment made by ODM in signing the October 31, 1985 agreement to address the remaining issues, finds that additional review of Oklahoma's AML grant applications is no longer necessary and is removing the restrictions on funding of the AML

program. Subsequent to the October 31, 1985 agreement, a grant for \$1.3 million for construction of FY 1986 projects was awarded to OCC.

The Director based on the above findings is amending 30 CFR Part 936 to codify his decision to modify the schedule for returning full authority to the State of Oklahoma.

#### Additional Determinations

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

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

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

#### List of Subjects in 30 CFR Part 936

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

Dated: November 25, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

#### PART 936—OKLAHOMA

30 CFR Part 936 is amended as follows:

1. The authority citation for Part 936 continues to read as follows:

**Authority:** Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

2. 30 CFR 936.17 is revised to read as follows:

### § 936.17 Direct Federal enforcement of State Program.

Starting on the effective date of this decision and until otherwise specified by the Director, OSM shall continue to directly implement, administer and enforce the approved Oklahoma regulatory program to the extent specified below. The authority of the Oklahoma Department of Mines to implement the Oklahoma regulatory program is restored to the extent specified below.

(a) With respect to enforcement actions initiated by the State prior to April 30, 1984, ODM shall continue to have authority to take administrative enforcement actions to bring outstanding violations to a final disposition (including issuing proposed assessments, assessing penalties, holding informal conferences and hearings, and collecting penalties). However, any termination or vacation of enforcement actions for operations under the jurisdiction of OSM by ODM shall not take effect until approved by OSM.

(b) Upon the satisfactory completion of the requirements specified in 30 CFR 936.18 (a) and (b) but no earlier than January 1, 1986, ODM will have authority to implement the Oklahoma regulatory program for all mines where mining has been completed or the site has been abandoned and no further mining at that site is intended by any person. OSM, by December 16, 1985, will provide ODM with a list of the permits in the above categories.

(c) Beginning after January 1, 1986, ODM will have authority to implement the Oklahoma regulatory program for individual active and temporarily closed operations for which ODM has reevaluated and revised the permits and reclamation bonds in accordance with the procedures and processes specified in 30 CFR 936.18 (c) and (d). Upon an affirmative demonstration to OSM that a reevaluated permit is in compliance with the approved program, OSM will notify ODM that the individual permit is returned to the State's jurisdiction.

(d) OSM will continue to conduct all inspections of coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal lands within the State, including bond release inspections with the exception of those specified paragraphs in (b) and (c) above, in accordance with sections 517, 518, 521, 525, and 526 of the Federal Act, 30 U.S.C. 1267, 1268, 1271, 1275, and 1276 30 CFR Parts 842, 843 and 845, and 43 CFR Part 4. With respect to enforcement actions initiated by ODM prior to April 30, 1984, OSM will conduct follow-up inspections at all sites with

outstanding violations on or after the abatement dates specified in the State-issued notices of violation, unless the site has been returned to the State's jurisdiction under the provisions of paragraphs (b) and (c) above.

(e) OSM will continue to issue, modify, enforce and terminate notices of violation, cessation orders and show cause orders in accordance with sections 517, 518, 521, 525, and 526 of the Federal Act, 30 U.S.C. 1267, 1268, 1271, and 1276, and 30 CFR Parts 842, 843 and 845, and 43 CFR Part 4. With respect to enforcement actions initiated by ODM prior to April 30, 1984, OSM will continue to issue failure-to-abate cessation orders if the operator has not or does not abate the violation by the abatement date set in the State-issued notice of violation. OSM will continue to issue notices of violation for any violation observed by an OSM inspector that has not been previously cited by the State. OSM will continue to issue cessation orders for any condition or practice which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

(f) OSM will continue to impose civil and criminal sanctions as appropriate for violations of the State law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with sections 517, 518, 521, 525, and 526 of the Federal Act, 30 U.S.C. 1267, 1268, 1271, 1275, and 1276, and 30 CFR Parts 842, 843 and 845, and 43 CFR Part 4.

(g) OSM will promptly inform ODM of the results of all follow-up inspections conducted by OSM and of enforcement actions taken which pertain to enforcement actions initiated by ODM prior to April 30, 1984.

(h) Any administrative review of OSM enforcement actions under this section will continue to be carried out pursuant to 43 CFR Part 4.

(i) OSM will continue to be responsible for any outstanding Federal enforcement actions taken since April 30, 1984, including any necessary follow-up inspections on those operations for which inspection and enforcement authority has been returned to ODM in accordance with paragraphs (b) and (c) above. To avoid duplication and placement of an undue burden on operators, ODM will not be required to pursue additional enforcement action on violations previously cited by OSM.

3. 30 CFR 936.18 is revised to read as follows:

### § 936.18 Remedial actions.

As a prerequisite to the Oklahoma Department of Mines to resume authority to implement the provisions of the Oklahoma surface coal mining regulatory program that are being directly enforced by the Office of Surface Mining as specified under 30 CFR 936.17, the Director requires that Oklahoma carry out the remedial measures specified below.

(a) To minimize the potential for confusion and misunderstanding about the Permitting and Inspection and Enforcement Plans during the resumption of authority, ODM must identify or provide to OSM by December 16, 1985, copies of policy statements, guidelines, procedures and forms that are presently in use; policy statements, guidelines, procedures and forms that have been changed since submission of the plans; and policy statements, guidelines, procedures and forms that are being proposed, including timeframes for projected implementation.

(b) ODM must prepare and provide to OSM by December 16, 1985, lists identifying the current backlog of bond forfeiture actions and of injunctive relief proceedings regarding state-issued violations and a plan including necessary commitments from the Attorney General's office as to how Oklahoma intends to address this backlog.

(c) Permitting and bonding processes will be in accordance with the Permitting plan and in compliance with the approved Oklahoma program. Specifically, ODM will implement procedures to:

- (1) Calculate and set bonds sufficient to allow third party reclamation.
  - (2) Process bond forfeiture actions in a timely manner.
  - (3) Assure against after-the-fact revisions to permits.
  - (4) Prevent issuance of permits to operators with outstanding enforcement actions or unpaid AML fees pursuant to § 786.19 (g) and (h) of the approved Oklahoma regulations.
  - (5) Assure against inappropriate incidental boundary changes.
- (d) ODM will reevaluate and revise permits for active and temporarily closed operations with emphasis being placed on those relevant permitting deficiencies identified in the 1985 Annual Evaluation Report and place a high priority on those operations that have not received a permanent program permit. After reevaluation, ODM will require additional reclamation bond for those active and temporarily closed

operations that are found to be underbonded.

(e) ODM will conduct joint inspections with OSM inspectors on a monthly basis for the first three months (one complete inspection and two partial inspections) on those permits described in 30 CFR 936.17(c) for which inspection and enforcement authority has been returned.

(f) ODM shall continue to submit to OSM a report once every three months on the State's progress in the following program areas:

- (1) Reevaluating existing permits including bond adequacy;
  - (2) Reevaluating bond release actions since August 10, 1982;
  - (3) Notifying operators of additional permit application and/or bond information requirements;
  - (4) Processing new permits or permit revisions;
  - (5) Processing petitions to designate land as unsuitable for surface mining.
4. 30 CFR 936.19 revised to read as follows:

**§ 936.19 Termination of Federal enforcement of State program.**

(a) The Director will return to Oklahoma the remaining authority suspended under 30 CFR 936.17 provided the following requirements have been met:

(1) The State has accomplished to the satisfaction of the Director all remedial actions specified under 30 CFR 936.18 (a), (b) and (f).

(2) The State has completed the affirmative demonstrations and resumed inspection and enforcement authority for all individual permits as described in 30 CFR 936.18 (c), (d) and (e).

(b) Upon satisfaction of the requirements specified in paragraph (a) of this section, the Director will announce in the *Federal Register* his decision to restore to Oklahoma all program authority and terminate the procedures initiated under 30 CFR 733.12.

[FR Doc. 85-28606 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-05-M

**POSTAL SERVICE**

**39 CFR Part 10**

**International Mail Manual; Miscellaneous Amendments**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service hereby describes numerous miscellaneous revisions consolidated in the

Transmittal Letter for Issue 3 of the International Mail Manual (IMM), which is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1.

While many of the revisions are minor, editorial, or clarifying, issue 3 contains major changes in organization, format, and location of information. Substantive changes, such as the new international postage rates which became effective February 17, 1985, have previously been published in the *Federal Register*.

**EFFECTIVE DATE:** July 4, 1985.

**FOR FURTHER INFORMATION CONTACT:**

Paul J. Kemp, (202) 268-2960.

**SUPPLEMENTARY INFORMATION:** The International Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 10.1) has been amended by the publication of a transmittal letter for issue 3, dated July 4, 1985. The text of all published changes is filed with the Director of the *Federal Register*. Subscribers to the International Mail Manual receive these amendments automatically from the Government Printing Office.

The following is from the Explanation section of the transmittal letter for issue 3:

**Explanation**

Issue 3 replaces Issues 1 and 2 of the IMM. It contains the new international postal rates which became effective February 17, 1985, and all revisions published in the Postal Bulletin through July 4, 1985. Items published after July 4, 1985 are effective, but have not been incorporated into Issue 3.

Issue 3 incorporates major changes in organization, format, and location of information. Major changes or new features include:

1. The chapters have been revised, and certain sections rewritten for clarity.
2. Separate Individual Country Sheets for Postal Union Mail and Parcel Post have been combined into one section. Information in the Individual Country Listings (ICLs) has been standardized and referenced.
3. Postage rate tables for each class of mail have been reformatted. The new format shows air rates on the left and surface rates on the right.
4. All summary tables have been eliminated. The information that was contained in the tables has been incorporated into the appropriate chapters.
5. An Appendix has been added which contains the following:

Appendix A—World Map Index  
Appendix B—Index of Localities  
Appendix C—Conversion Table—Dollars to Gold Francs (GFR) and to Special Drawing Rights (SDR).

Appendix D—Express Mail International Service (EMIS) Country Listings.  
Appendix E—International Surface Air Lift Network Countries and Rates (ISAL).

6. The Contents and Index have been completely revised.

**List of Subjects in 39 CFR Part 10**

Postal Service, Foreign relations.

**PART 10—[AMENDED]**

1. The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 410, 404, 407, 408.

2. Section 10.3 is amended by adding at the end thereof the following:

**§ 10.3 Amendments to the International Mail Manual.**

Transmittal letter for issue	Dated	FR publication
3	July 4, 1985	50 FR

3. Section 10.5 is revised to read as follows:

**§ 10.5 Contents of the International Mail Manual.**

The International Mail Manual contains the following parts:

(a) Chapter 1—International Mail Services

(1) Subchapter 110—General Information

- (i) Part 111—Scope
- (ii) Part 112—Mailer Responsibility
- (iii) Part 113—Individual Country Listings (ICLs)
- (iv) Part 114—Availability
- (v) Part 115—Official Correspondence

(2) Subchapter 120—Preparation for Mailing

- (i) Part 121—Packaging—Sender's Responsibility
- (ii) Part 122—Addressing
- (iii) Part 123—Customs Forms Required

(3) Subchapter 130—Mailability

- (i) Part 131—General
- (ii) Part 132—Written, Printed, and Graphic Matter
- (iii) Part 133—Improperly Addressed Mail

- (iv) Part 134—Valuable Articles
- (v) Part 135—Animals and Plants
- (vi) Part 136—Special Packaging Requirements

(vii) Part 137—Perishable Biological Substances

(viii) Part 138—Radioactive Materials

(ix) Part 139—Dangerous Materials

(4) Subchapter 140—International Mail Classes

- (i) Part 141—Definitions
- (ii) Part 142—Size Limits
- (iii) Part 143—Envelope and Card Specifications
- (iv) Part 144—Official Mail

- (v) Part 145—Air Service
- (5) Subchapter 150—Postage
  - (i) Part 151—Postage Rates
  - (ii) Part 152—Payment Methods
  - (iii) Part 153—Placement of Postage
  - (iv) Part 154—Postage for Combination Pieces
  - (v) Part 155—Remailed Items
- (b) Chapter 2—Conditions for Mailing
  - (1) Subchapter 210—Express Mail International Service
    - (i) Part 211—Description
    - (ii) Part 212—Postage
    - (iii) Part 213—Weight and Size Limits
    - (iv) Part 214—Preparation Requirements
  - (2) Subchapter 220—Letters and Letter Packages
    - (i) Part 221—Description
    - (ii) Part 222—Postage
    - (iii) Part 223—Weight and Size Limits
    - (iv) Part 224—Preparation Requirements
  - (3) Subchapter 230—Postcards and Aerogrammes
    - (i) Part 231—Description
    - (ii) Part 232—Postage Rates
    - (iii) Part 233—Weight and Size Limits
    - (iv) Part 234—Preparation Requirements
  - (4) Subchapter 240—Printed Matter
    - (i) Part 241—Description
    - (ii) Part 242—Postage
    - (iii) Part 243—Weight and Size Limits
    - (iv) Part 244—Preparation Requirements
    - (v) Part 245—Direct Sacks of Printed Matter to One Addressee ("M" Bags)
  - (5) Subchapter 250—Matter for the Blind
    - (i) Part 251—Description
    - (ii) Part 252—Postage Rates
    - (iii) Part 253—Weight and Size Limits
    - (iv) Part 254—Preparation Requirements
  - (6) Subchapter 260—Small Packets
    - (i) Part 261—Description
    - (ii) Part 262—Postage Rates
    - (iii) Part 263—Weight and Size Limits
    - (iv) Part 264—Preparation Requirements
  - (7) Subchapter 270—Parcel Post
    - (i) Part 271—Description
    - (ii) Part 272—Postage
    - (iii) Part 273—Weight and Size Limits
    - (iv) Part 274—Preparation Requirements
- (c) Chapter 3—Special Services
  - (1) Subchapter 310—Certificate of Mailing
    - (i) Part 311—Description
    - (ii) Part 312—Availability
    - (iii) Part 313—Fees
    - (iv) Part 314—Processing Requests
  - (2) Subchapter 320—Insurance
    - (i) Part 321—Description
    - (ii) Part 322—Availability
    - (iii) Part 323—Fees and Insured Value
  - (3) Subchapter 330—Registered Mail
    - (i) Part 331—Description
    - (ii) Part 332—Availability
    - (iii) Part 333—Fees and Indemnity Limit
    - (iv) Part 334—Processing Requests
    - (v) Part 335—Indemnity Claims and Payments
  - (4) Subchapter 340—Return Receipt
    - (i) Part 341—Description
    - (ii) Part 342—Availability
    - (iii) Part 343—Fee
    - (iv) Part 344—Processing Requests
  - (5) Subchapter 350—Restricted Delivery
    - (i) Part 351—Description
    - (ii) Part 352—Availability
    - (iii) Part 353—Fee
    - (iv) Part 354—Processing Requests
  - (6) Subchapter 360—Recall/Change of Address
    - (i) Part 361—Description
    - (ii) Part 362—Conditions and Limitations
    - (iii) Part 363—Fees and Charges
    - (iv) Part 364—Processing Requests
  - (7) Subchapter 370—Special Delivery
    - (i) Part 371—Description
    - (ii) Part 372—Availability
    - (iii) Part 373—Fees
    - (iv) Part 374—Processing Requests
  - (8) Subchapter 380—Special Handling
    - (i) Part 381—Description
    - (ii) Part 382—Availability
    - (iii) Part 383—Fees
    - (iv) Part 384—Processing Requests
  - (9) Subchapter 390—Supplementary Services
    - (i) Part 391—International Postal Money Orders
    - (ii) Part 392—International Reply Coupons
- (d) Chapter 4—Treatment of Outbound Mail
  - (1) Subchapter 410—Postmarking
  - (2) Subchapter 420—Shortpaid and Unpaid Mail
    - (i) Part 421—Check for Sufficient Postage
    - (ii) Part 422—Unpaid Mail
    - (iii) Part 423—Shortpaid Mail
  - (3) Subchapter 430—Improperly Prepared Mail
    - (i) Part 431—Insufficient Address
    - (ii) Part 432—Oversized or Undersized Items
    - (iii) Part 433—Oversized Cards
    - (iv) Part 434—Reply-Paid Cards
  - (4) Subchapter 440—Special Services Mail
    - (i) Part 441—Registered Mail
    - (ii) Part 442—Special Delivery
    - (iii) Part 443—Special Handling
  - (5) Subchapter 450—Forwarding
- (e) Chapter 5—Nonpostal Export Regulations
  - (1) Subchapter 510 [Reserved]
  - (2) Subchapter 520—Shipper's Export Declaration
    - (i) Part 521—Description
    - (ii) Part 522—When Required
    - (iii) Part 523—How to obtain Commercial Forms
    - (iv) Part 524—How to Prepare Shipper's Export Declaration (Commerce Form 7525-V)
    - (v) Part 525—Handling and Disposal of Shipper's Export Declaration
  - (3) Subchapter 530—Commodities and Technical Data
    - (i) Part 531—Scope and Applicability of Licensing Requirements
    - (ii) Part 532—General Export Licenses
    - (iii) Part 533—Validated Export Licenses
  - (4) Subchapter 540—Munitions and Related Technical Data
    - (i) Part 541—Licensing Requirements
    - (ii) Part 542—Mailing Under Individual Licenses
  - (5) Subchapter 550—Dried Whole Eggs
    - (i) Part 551—Description
    - (ii) Part 552—Charges
    - (iii) Part 553—How to Mail
  - (6) Subchapter 560—Tobacco Seeds and Tobacco Plants
    - (i) Part 561—Description
    - (ii) Part 562—Charges
    - (iii) Part 563—How to Mail
  - (7) Subchapter 570—Consular and Commercial Invoices
  - (8) Subchapter 580—Drawback Arrangement
    - (i) Part 581—Description
    - (ii) Part 582—Processing Drawback Claims
  - (f) Chapter 6—[Reserved]
  - (g) Chapter 7—Treatment of Inbound Mail
    - (1) Subchapter 710—U.S. Customs Information
      - (i) Part 711—Customs Examination of Mail Believed to Contain Dutiable or Prohibited Articles
      - (ii) Part 712—Customs Clearance and Delivery Fee
      - (iii) Part 713—Treatment of Dutiable Mail at Delivery Office
    - (2) Subchapter 720—Plant and Animal Quarantine
      - (i) Part 721—What is Subject to Inspection
      - (ii) Part 722—Segregation and Handling
      - (iii) Part 723—Agriculture Inspection Stations and Offices
    - (3) Subchapter 730—Shortpaid Mail to U.S.A.
      - (i) Part 731—Computation of Postage Due



- (ii) Part 732—Shortpaid Letters and Cards From Canada
- (iii) Part 733—Shortpaid Items Bearing U.S. Postage
- (4) Subchapter 740—Irregular Mail
  - (i) Part 741—Invalid Foreign Postage
  - (ii) Part 742—Unauthorized Letters Enclosed
  - (iii) Part 743—Stamps Not Affixed
  - (iv) Part 744—Parcels Addressed Through Banks or Other Organizations
  - (v) Part 745—Foreign Dispatch Notes
- (5) Subchapter 750—Special Services
  - (i) Part 751—Insured Parcels
  - (ii) Part 752—Registered Mail
  - (iii) Part 753—Return Receipt
  - (iv) Part 754—Restricted Delivery
  - (v) Part 755—Special Delivery
  - (vi) Part 756—Recall and Change of Address
- (6) Subchapter 760—Storage
  - (i) Part 761—Retention Period
  - (ii) Part 762—Storage Charges
- (7) Subchapter 770—Forwarding
  - (i) Part 771—General Procedures
  - (ii) Part 772—Mail of Domestic Origin
  - (iii) Part 773—Items Mailed Aboard Ships (Paquebot)
  - (iv) Part 774—Mail of Foreign Origin
  - (v) Part 775—Directory Service
- (8) Subchapter 780—Undeliverable Mail
  - (i) Part 781—Mail of Domestic Origin
  - (ii) Part 782—Mail of Foreign Origin
- (9) Subchapter 790—Items Mailed Abroad by or on Behalf of Senders in the U.S.
  - (i) Part 791—Mailings Affected
  - (ii) Part 792—Postage Payment Required
  - (iii) Part 793—Advance Payment Required
  - (iv) Part 794—Treatment if Advance Payment Not Made
  - (v) Part 795—Report of Mailings
- (h) Chapter 8 [Reserved]
- (i) Chapter 9—Inquiries, Indemnities and Refunds
  - (1) Subchapter 910—Reports Encouraged
  - (2) Subchapter 920—Inquiries and Claims
    - (i) Part 921—Inquiry Described
    - (ii) Part 922—Filing of Inquiries
    - (iii) Part 923—Claim Described
    - (iv) Part 924—Initiation of Claims
    - (v) Part 925—Documents to Accompany Claims
    - (vi) Part 926—Disposition of Damaged Mail
    - (vii) Part 927—Charges for Inquiries
    - (viii) Part 928—Processing Inquiries
  - (3) Subchapter 930—Indemnity Payments
    - (i) Part 931—Adjudication and Approval
    - (ii) Part 932—General Exceptions to Payment—Insured Parcel Post and

- Registered Letter Post Mail
- (iii) Part 933—Payments for Insured Parcel Post
- (iv) Part 934—Payments for Registered Mail
- (v) Part 935—Payments for Express Mail International Service
- (4) Subchapter 940—Postage Refunds
  - (i) Part 941—Refunds for Postal Union Mail and Parcel Post
  - (ii) Part 942—Refunds for Express Mail International Service
  - (iii) Part 943—Applications by Senders
  - (iv) Part 944—Processing Refund Applications

- (j) Appendix A—World Map Index
- (k) Appendix B—Index of Localities
- (l) Appendix C—Conversion Table: U.S. Dollars to Gold Francs (GFRs) and to Special Drawing Rights (SDRs)
- (m) Appendix D—Express Mail International Service (EMIS) Country Listings
- (n) Appendix E—International Surface Air Lift Network Countries and Rates
- (o) Individual Country Listings (ICLs)
- (p) Index

W. Allen Sanders,  
Associate General Counsel, Office of General Law and Administration.  
[FR Doc. 85-28529 Filed 11-29-85; 8:45 am]  
BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-4-FRL-2932-8;TN-024]

#### Approval and Promulgation of Implementation plans; Tennessee: Approval of Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Correction in final rule.

**SUMMARY:** The size categories of wood-fired fuel burning equipment regulated by Tennessee Rule 1200-3-5-.06 are incorrectly described on pp. 29383-84 of the July 19, 1985, issue. The notice states that the categories range from zero (0) to 100 MBTU/hr, but Rule 1200-3-9-.04 exempts fuel burning equipment of less than 500,000 BTU per hour. This notice corrects the error.

**EFFECTIVE DATE:** September 17, 1985.

**FOR FURTHER INFORMATION CONTACT:** Rosalyn Hughes, EPA Region IV, Air Programs Branch at (404) 881-3286 (FTS 257-3286).

## § 52.2220 [Corrected]

On page 29384, July 19, 1985, in § 52.2220(c)(65), the first clause of the second sentence is corrected to read as follows:

- • • • •
- (c) • • • • •
- (65) • • • • • Coverage of wood-fired fuel equipment was expanded to include units of 500,000 to 100,000,000 BTU per hour heat input in certain counties;
- • • • •

Dated: November 18, 1985.  
John A. Little,  
Acting Regional Administrator.  
[FR Doc. 85-28138 Filed 11-29-85; 8:45 am]  
BILLING CODE 6590-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Parts 432 and 433

[BPO-500-F]

#### Medicaid Program; Third Party Liability for Medical Assistance; FFP Rates for Skilled Professional Medical Personnel and Supporting Staff; and Sources of State Share of Financial Participation

##### Correction

In FR Doc. 85-26603 beginning on page 46652 in the issue of Tuesday, November 12, 1985, make the following corrections:

1. On page 46663, in the second column, in § 432.2, in the fifth line from the bottom, "Agencis" should read "Agencies".
2. On page 46663, in the third column, in the section heading for § 432.45, "Applicability" should read "Applicability"; and "provision" should read "provisions".
3. Also on page 46663, in third column, in § 432.45, in the last line, "(a)(3)(B)" should read "(a)(3)(B)".
4. On page 46664, in the first column, in the authority citation, in the third line, "1903(d)(25)" should read "1903(d)(2)".
5. On page 46664, in the second column, in the third line, "1396(a)(45)" should read "1396(a)(45)"; in the fourth line, "1396(o), 1396(p)" should read "1396b(o), 1396b(p)".
6. Also on page 46664, in the third column, in § 433.136, in the definition for "Third party", in the first line, "individual" should read "individual".
7. On page 46665, in the third column, in § 433.145(a), in the last line, "support payments." should read "support or payments."
8. On page 46666, in the first column, in § 433.151(a), in the fifth line from the

top, "of the State" should read "of any State".

BILLING CODE 1505-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### National Flood Insurance Administration

#### 44 CFR Part 64

[Docket No. FEMA 6689]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

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

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

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration (202) 646-2717, 500 C Street, Southwest, FEMA, Room 416, Washington, DC 20472.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood

Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable floodplain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

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

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

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

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

#### PART 64—[AMENDED]

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

#### § 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurances in community	Special flood hazard area identified	Date <sup>1</sup>
<b>Region I</b>					
Massachusetts: Norfolk	Quincy, city of	255219B	June 19, 1970, Emerg.; Sept. 21, 1973, Reg.; Dec. 4, 1985 Susp.	Sept. 21, 1973, July 1, 1974, July 30, 1976 and Dec. 4, 1985.	Dec. 4, 1985
Vermont: Windham	Brattleboro, city of	500126B	Oct. 23, 1973, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Feb. 8, 1974, Feb. 18, 1977 and Dec. 4, 1985.	Do.
<b>Region II</b>					
New Jersey: Passaic	Bloomfield, borough of	345284C	Oct. 2, 1970, Emerg.; Mar. 10, 1972, Reg.; Dec. 4, 1985, Susp.	Mar. 10, 1972, July 1, 1974, July 9, 1976 and Dec. 4, 1985.	Do.
New York: Rockland	Nyack, village of	360685B	May 15, 1975, Emerg.; May 25, 1978, Reg.; Dec. 4, 1985 Susp.	Dec. 4, 1985.	Dec. 4, 1985

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurances in community	Special flood hazard area identified	Date <sup>1</sup>
<b>Region III</b>					
Maryland: Kent	Unincorporated areas	240045B	Mar. 9, 1973, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Apr. 25, 1985, Sept. 17, 1982 and Dec. 4, 1985	Dec. 4, 1985.
<b>Region IV</b>					
North Carolina: Camden	do	370042B	May 14, 1974, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 20, 1975, Dec. 23, 1977 and Dec. 4, 1985	Do.
Georgia: Glynn	Brunswick, city of	130093B	Mar. 6, 1974, Emerg.; June 19, 1985, Reg.; Dec. 4, 1985, Susp.	May 24, 1974, Jan. 18, 1976 and June 19, 1985	Do.
<b>Region V</b>					
Illinois: Alexander	East Cape Girardeau, village of	170916B	May 5, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	July 22, 1977 and Dec. 4, 1985	Do.
Minnesota: Redwood	Unincorporated areas	270644B	May 23, 1974 Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 11, 1977 and Dec. 4, 1985	Do.
Ohio: Clark	Springfield, city of	390063C	Mar. 26, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Apr. 12, 1974, Mar. 14, 1975, July 2, 1982 and Dec. 4, 1985	Do.
Wisconsin: Barron	Dallas, village of	550014B	Sept. 29, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	July 19, 1974, June 25, 1976 and Dec. 4, 1985	Do.
<b>Region VI</b>					
Arkansas: Craighead	Bono, city of	050046B	Apr. 11, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Aug. 30, 1974, Oct. 3, 1975 and Dec. 4, 1985	Do.
Texas: Young	Olney, city of	480686C	Aug. 5, 1974, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Apr. 12, 1974, Mar. 19, 1976, Sept. 10, 1976 and Dec. 4, 1985	Do.
<b>Region VII</b>					
Kansas: Saline	New Cambria, city of	200318A	July 12, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 27, 1974 and Dec. 4, 1985	Do.
<b>Region VIII</b>					
Colorado: Pitkin	Aspen, city of	080143B	July 2, 1974, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Feb. 15, 1974, Dec. 24, 1976 and Dec. 4, 1985	Do.
Montana:					
Richland	Sidney, city of	300065B	Dec. 17, 1974, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	May 24, 1974, Dec. 5, 1975 and Dec. 4, 1985	Do.
Do.	Unincorporated areas	300165B	Apr. 3, 1978, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 31, 1978 and Dec. 4, 1985	Do.
<b>Region I Minimal Conversion</b>					
Connecticut:					
Windham	Hampton, town of	090170A	Dec. 29, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 10, 1975 and Dec. 4, 1985	Do.
Do.	Scotland, town of	090182A	Dec. 29, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 31, 1975 and Dec. 4, 1985	Do.
Tolland	Union, town of	090190B	Nov. 7, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 31, 1975, June 21, 1976 and Dec. 4, 1985	Do.
Maine:					
Knox	Appleton, town of	230073B	July 22, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Aug. 2, 1974, Mar. 4, 1977 and Dec. 4, 1985	Do.
Piscataquis	Atkinson, town of	230407B	July 16, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Feb. 21, 1975, Sept. 17, 1976 and Dec. 4, 1985	Do.
Penobscot	Newburgh, town of	230799B	Dec. 16, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 21, 1978 and Dec. 4, 1985	Do.
Aroostook	Portage Lake, town of	230031A	Nov. 21, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 24, 1975 and Dec. 4, 1985	Do.
Do.	St. Francis, town of	230183A	Oct. 4, 1977, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 20, 1974 and Dec. 4, 1985	Do.
Do.	Woodlands, town of	230040B	July 3, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	June 21, 1974, Nov. 12, 1976 and Dec. 4, 1985	Do.
Massachusetts:					
Franklin	Hawley, town of	250119A	Jan. 7, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 22, 1974 and Dec. 4, 1985	Do.
Do.	Monroe, town of	250351A	Sept. 8, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Feb. 21, 1975 and Dec. 4, 1985	Do.
Berkshire	Richmond, town of	250038A	July 25, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 10, 1976 and Dec. 4, 1985	Do.
Vermont:					
Oleans	Lowell, town of	500254	July 16, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Sept. 20, 1974, Sept. 17, 1976 and Dec. 4, 1985	Do.
Addison	Starksboro, town of	500172B	July 25, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 31, 1975, Oct. 8, 1976 Dec. 4, 1985	Do.
<b>Region II</b>					
New York:					
Montgomery	Ames, village of	360430B	Oct. 7, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	July 15, 1977 and Dec. 4, 1985	Do.
Otsego	Morris, village of	361273B	Apr. 25, 1977, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 15, 1974, June 28, 1976 and Dec. 4, 1985	Do.
Franklin	Waverly, town of	361126B	Jan. 22, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Oct. 25, 1974, July 23, 1976 and Dec. 4, 1985	Do.
<b>Region III Minimal Conversions</b>					
Pennsylvania:					
Wayne	Cherry Ridge, township of	422161A	Nov. 14, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 20, 1974 and Dec. 4, 1985	Do.
Pike	Delaware, township of	421963B	Sept. 10, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 29, 1974, July 25, 1980 and Dec. 4, 1985	Do.
Do.	Dingman, township of	421964B	Mar. 6, 1979, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Feb. 14, 1975, Jan. 11, 1980 and Dec. 4, 1985	Do.
Cambria	Munster, township of	422263A	Dec. 3, 1982, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 22, 1974 and Dec. 4, 1985	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurances in community	Special flood hazard area identified	Date <sup>1</sup>
Huntingdon	Dublin, township of	421689B	Jan. 20, 1978, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 13, 1974, Oct. 31, 1980 and Dec. 4, 1985.	Do.
Pike	Milford, township of	422642B	Mar. 11, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	July 22, 1977 and Dec. 4, 1985.	Do.
Huntingdon	Morris, township of	421696B	Aug. 9, 1982, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 22, 1974, June 8, 1979 and Dec. 4, 1985.	Do.
Wayne	Scott, township of	422173B	Jan. 27, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Nov. 22, 1974, Dec. 19, 1980, and Dec. 4, 1985.	Do.
Adams	Union, township of	421261A	Mar. 17, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Dec. 6, 1974 and Dec. 4, 1985.	Do.
Huntingdon	West, township of	421706	Feb. 17, 1976, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.	Jan. 17, 1975, June 18, 1979 and Dec. 4, 1985.	Do.
Region VIII South Dakota: Spink	Redfield, town of	460081B	May 22, 1975, Emerg.; Nov. 15, 1985, Reg.; Dec. 15, 1985, Susp.	Aug. 2, 1974, Jan. 2, 1976 and Nov. 15, 1985.	Dec. 15, 1985

<sup>1</sup> Code for reading 5th column.—Emerg.—Emergency, Reg.—Regular, Susp.—Suspension.  
Date certain Federal assistance no longer available in special flood hazard area.

Issued: November 25, 1985.

Jeffrey S. Bragg,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 85-28516 Filed 11-29-85; 8:45 am]  
BILLING CODE 6718-03-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Child Support Enforcement Social Security Administration

#### 45 CFR Part 205

#### Child Support Enforcement Program; Aid to Families With Dependent Children; Revision of Child Support Enforcement Program Audit Regulations

##### Correction

In FR Doc. 85-23268, beginning on page 40120, in the issue of Tuesday, October 1, 1985, make the following corrections:

##### § 305.10 Corrected.

On page 40140, in the second column, in § 305.10(a), the next to the last sentence is removed.

##### § 305.20 Corrected.

On the same page, in the third column, in § 305.20(a)(1), in the third line from the bottom of the page, "CFR 26" should read "CFR 305.26".

##### § 305.54 Corrected.

On page 40144, in the first column, in § 305.54(a), in the third line, "owned" should read "owed".

BILLING CODE 1505-01-M

### Office of Child Support Enforcement 45 CFR Part 305

#### Child Support Enforcement Program; Revision of Child Support Enforcement Program Audit Regulations; Correction

**AGENCY:** Office of Child Support  
Enforcement (OCSE), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document makes corrections to the Child Support Enforcement program final audit regulations that appeared in the *Federal Register* on October 1, 1985 (50 FR 40120).

##### FOR FURTHER INFORMATION CONTACT:

Michael P. Fitzgerald, (301) 443-5350.  
Accordingly, OCSE, HHS, is correcting 45 CFR Part 305 as follows:  
In FR Doc. 85-23268, appearing at page 40120, in the issue of Tuesday, October 1, 1985, make the following corrections.

##### § 305.34 [Corrected]

1. On page 40142, first column, at § 305.34, fourth line, first word should read "arrangements".

##### § 305.53 [Corrected]

2. On page 40144, first column, at § 305.53, sixth line, substitute a colon for the semi-colon.

##### § 305.98 [Corrected]

3. On the same page, middle column at § 305.98(b)(1), third line, delete right parenthesis at the end of the line.

4. On the same page, third column at § 305.98(c)(1)(ii), third line, last word should read "costs".

##### § 305.99 [Corrected]

5. On page 40145, first column at § 305.99(c), third through tenth lines, delete the words "and, beginning with the fiscal year 1986 audit period, when a State fails to meet audit criteria relating

to the performance indicators prescribed in § 305.58 of this part the penalty will be suspended until the end of the fiscal year following the fiscal year in which a State failed to meet those criteria".

6. On the same page, middle column at § 305.99(d)(1), third line, fifth word should read "maintained".

##### § 305.100 [Corrected]

7. On the same page, third column at § 305.100(c), substitute the proper spelling of "corrective" and "occurred".

(Catalog of Federal Domestic Assistance Program No. 13.879, Child Support Enforcement Program)

Approved November 22, 1985.

K. Jacqueline Holz,  
Deputy Assistant Secretary for Management  
Analysis and Systems.

[FR Doc. 85-26603 Filed 11-29-85; 8:45 am]

BILLING CODE 4190-11 -M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

#### Office of Management and Budget Short-Term Approval of Public Information Collection Requirement

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Notice of short-term approval of  
information collection requirements.

**SUMMARY:** On September 11, 1985, the Federal Communications Commission requested renewal of Office of Management and Budget approval of an information collection requirement concerning political editorials in § 73.1930 of the Commission's Rules (OMB Control No. 3060-0210). This rule section imposes certain disclosure requirements on broadcast station licensees who endorse or oppose candidates for public office in editorials.

On October 15, 1985, the Office of Management and Budget issued a Notice of Action in accordance with 5 CFR 1320.14 proposing that the Commission eliminate the information collection required by § 73.1930 of its Rules. The Office of Management and Budget has extended approval of the information collection requirement in § 73.1930 through April 1986 to allow the Commission time to consider the OMB proposal. This notice is intended to comply with the public notice requirement contained in paragraph (f) of 5 CFR 1320.14.

**FOR FURTHER INFORMATION CONTACT:** Terry Johnson, Room 416, Federal Communications Commission, 1919 M Street, NW., Washington, DC. (202/632-7513).

Federal Communications Commission.  
William J. Tricarico,  
Secretary.

[FR Doc. 85-28303 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171 and 175

[Docket No. HM-184C; Amdt. Nos. 171-85, 175-35]

#### Implementation of the ICAO Technical Instructions

**AGENCY:** Research and Special Programs Administration (RSPA), 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 1986 edition of the ICAO Technical Instructions becomes effective on January 1, 1986, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

**EFFECTIVE DATE:** January 1, 1986.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Altemos, International Standards Coordinator, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-0656.

**SUPPLEMENTARY INFORMATION:** On July 16, 1985, the RSPA published a notice (Docket HM-184C, Notice No. 85-3) in the Federal Register [50 FR 28820] which requested public comment on the need to amend the Hazardous Materials Regulations (HMR) in order to take account of the 1986 edition of the ICAO Technical Instructions.

Three commenters responded to Notice 85-3. Following full consideration of the comments received, the proposals contained in the notice are being adopted with certain changes. Two of the comments received supported the actions proposed in the Notice of Proposed Rulemaking, but offered specific comments on the amendments of § 175.10(a)(2) concerning the transport of aircraft parts, equipment and supplies.

The third commenter found the amendment proposed to § 175.10(a)(2) to be "unacceptable" in its entirety. That commenter, ERA Helicopters, Inc., objected on the basis that Alaska operators usually depend on their own aircraft to provide parts to aircraft requiring unscheduled field maintenance where no other suitable means of transport exists. The RSPA does not believe that the need for expeditious movement of replacement aircraft parts is a problem unique to Alaska operators. In addition, the commenter provided no safety arguments as to why a hazardous material shipped by an aircraft operator presents any less hazard, or should be transported any differently, than the same hazardous material offered for transport by another shipper. This commenter also requested further review to determine whether this amendment would meet the criteria of the Regulatory Flexibility Act. In the absence of any information provided in this comment or any of the other comments demonstrating that significant impacts would result from the amendment, the RSPA continues to believe that this amendment will not have a significant impact on a substantial number of small entities under the criteria of this Act. Therefore, the amendment to § 175.10(a)(2) has been adopted.

The Air Line Pilots Association (ALPA) took issue with the use of the word "equivalent" in the proposed § 175.10(a)(2)(i), and suggested that the packaging should be required "to meet

or exceed DOT and/or ICAO specifications." The RSPA has not accepted this suggestion because it could be interpreted to require full conformance to the DOT specifications including, for example, the embossment of DOT specification markings, when required. This is considered to be contrary to ICAO's intent in permitting the use of packaging specially designed for aircraft spares. However, the wording of this paragraph has been slightly revised in order to improve clarity. ALPA also noted that Special Provision A59 of the ICAO Technical Instructions specifically excepted serviceable aircraft tire assemblies from the provisions of the ICAO Technical Instructions, and that this special provision was similar to the existing § 175.10(a)(2)(x) of the HMR which would have been eliminated by the proposed amendment. ALPA expressed the opinion that, to avoid confusion, specific reference to aircraft tires should be retained in § 175.10(a)(2). The RSPA agrees, and a new § 175.10(a)(2)(iii) has been included excepting serviceable aircraft tire assemblies from the HMR under certain conditions.

The Air Transport Association of America (ATA) suggested that the ICAO Dangerous Goods Panel should consider whether replacement aircraft parts and supplies should be excepted from the requirement of being accompanied by a dangerous goods transport document when originated as company materials by the air carrier transporting the goods. The RSPA believes there could be merit in such an exception, provided these goods are still indicated on the notification to pilot-in-command, and should ICAO adopt such an exception, would be prepared to propose a similar amendment to the HMR.

#### Administrative Notices

##### A. Executive Order 12291

The RSPA has determined that the effect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures [44 FR 11034] and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act [49 U.S.C. 4321 et. seq.]. A regulatory evaluation is available for review in the Docket.

##### B. Impact on Small Entities

Based on limited information concerning the size and nature of entities likely affected, I certify that this

rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects**

*49 CFR Part 171*

Hazardous materials transportation, Incorporation by reference.

*49 CFR Part 175*

Hazardous materials transportation, Air carriers.

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

**PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS**

1. The authority citation for Part 171 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted.

2. 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), 1986 edition.  
\* \* \*

**PART 175—CARRIAGE BY AIRCRAFT**

3. The authority citation for Part 175 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1807, 1808, 49 CFR 1.53, unless otherwise noted.

4. In § 175.10, paragraph (a)(17) is amended by inserting the words "provided the package permits the release of carbon dioxide gas" after the words "carry-on baggage" and paragraph (a)(2) is revised to read as follows:

**§ 175.10 Exceptions.**

- (a) \* \* \*
- (2) Hazardous materials required aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations. Unless otherwise approved by the Director, Office of Hazardous Materials Transportation, items of replacement for such hazardous materials must be transported in accordance with this subchapter except that—

(i) In place of the required packagings, packagings specially designed for the transport of aircraft spares and supplies may be used, provided such packagings provide at least an equivalent level of protection to those that would be required by this subchapter;

(ii) Aircraft batteries are not subject to a gross weight quantity limitation; and,

(iii) A tire assembly with a serviceable tire it not subject to the provisions of this subchapter provided the tire is not inflated to a guage pressure exceeding the maximum rated pressure for that tire.  
\* \* \*

5. In § 175.33(a)(6), the words "overpacks or freight containers" are added preceding the words "their category".

Issued in Washington, D.C. on November 25, 1985 under authority delegated in 49 CFR Part 1, Appendix A.

**M. Cynthia Douglass,**  
*Administrator, Research and Special Programs Administration.*

[FR Doc. 85-28553 Filed 11-29-85; 8:45 am]  
BILLING CODE 4910-60-M

# Proposed Rules

Federal Register

Vol. 50, No. 231

Monday, December 2, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1032

#### Milk in the Southern Illinois Marketing Area; Proposed Suspension of Certain Provisions of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed suspension of rules.

**SUMMARY:** This notice invites written comments on a proposed suspension of a portion of the pooling standards for supply plants that would result in lowering the shipping standard for regulating supply plants under the Southern Illinois order. The action was requested by Mid-America Dairymen, Inc., a cooperative association that represents a substantial number of the producers who supply the market, in order to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market. Mid-Am requested the suspension action for December 1985 because increased production over year-earlier levels is expected to be in excess of the requirements of distributing plants as sales of fluid milk products normally decline during the holiday season.

**DATE:** Comments are due not later than 7 days from the date of publication of this notice in the *Federal Register*.

**ADDRESS:** Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968-South Building, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-2089.

**SUPPLEMENTARY INFORMATION:** The Administrator of the Agricultural Marketing Service has determined that the proposed rule, if promulgated, will not have a significant economic impact

on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Illinois marketing area is being considered for the month of December 1985.

In § 1032.7(b), the words "which have at least 50 percent Class I use (not including filled milk) of the total of such supply plant milk and producer milk receipts" and the words "through February".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, AMS, Room 2968-South Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 7 days from the date of publication of this notice in the *Federal Register*. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures to make the action effective for December 1985.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

#### Statement of Consideration

The proposed suspension would reduce the amount of milk that supply plants must ship to pool distributing plants to attain pool plant status under the order. Under the suspension, the percentage of its receipts that a supply plant must ship would be reduced from 50 percent to 40 percent.

The action was requested by Mid-America Dairymen, Inc., a cooperative association that represents a substantial number of the producers who supply the market. Mid-Am contends that the action is necessary because of production increases by producers over year-earlier levels. Because of the increases in production, the cooperative contends that the suspension is necessary for the month of December

1985 when sales of fluid milk products normally decline during the holiday season. Because of the relative changes in milk supplies and fluid milk sales, Mid-Am contends that a lesser proportion of supply plant receipts will have to be shipped to distributing plants. Thus, Mid-Am contends that, absent a suspension, costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have regularly supplied the fluid milk needs of the market.

#### List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1032 continues to read as follows:

**Authority:** (Secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674).

Signed at Washington, DC on: November 26, 1985.

Will T. Manley,

Deputy Administrator, Marketing Programs.  
[FR Doc. 85-28596 Filed 11-29-85-8:45 am]

BILLING CODE 3410-02-M

## Farmers Home Administration

### 7 CFR Parts 1941, 1943, and 1980

#### Restricting Insured and Guaranteed Operating and Farm Ownership Loans for Financing Surplus Agricultural Commodities

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to amend its insured and guaranteed Operating and Farm Ownership Loan regulations to allow the Administrator to restrict loans for purposes which finance agricultural commodities that are in surplus. (This action is being taken to support other Governmental (USDA) actions to reduce production and strengthen depressed prices.) The intended effect is to reduce production of such commodities.

**DATES:** Comments must be submitted on or before January 31, 1986.

**ADDRESSES:** Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room

6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments are made pursuant to this notice will be available for public inspection during working hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Yaxley, Jr., Senior Loan Officer, Farm Real Estate Production Division, Farmers Home Administration, USDA, Room 5449-S, Washington, D.C. 20250, telephone (202) 447-4572.

**SUPPLEMENTARY INFORMATION:**

**Classification**

This proposed action has been reviewed under USDA procedures established by Departmental Regulation 1512-1, which implements Executive Order 12291, and it has been determined to be non-major because there is no substantial change from practices under existing rules and no annual effect on the economy of \$100 million or more; or a major increase in cost or prices for consumer, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Programs Affected**

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: 10.406—Farm Operating Loans, 10.407—Farm Ownership Loans.

**Intergovernmental Consultation**

Intergovernmental Consultation should be carried out in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and activities." For affected programs see FmHA Instruction 1940-J, available in any FmHA office.

**Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Subpart A of Parts 1941 and 1943 and Subpart B of Part 1980 contain the policies, procedures and authorizations

for making operating and farm ownership loans.

The primary change is to provide the Administrator with the authority to restrict loans for such periods as necessary for purposes which finance agricultural commodities which are in surplus production, the supply is depressing prices and/or other Governmental (USDA) action is being taken to reduce productions.

**List of Subjects**

**7 CFR Part 1941**

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

**7 CFR Part 1943**

Credit, Loan programs—Agriculture, Recreation, Water resources.

**7 CFR Part 1980**

Agriculture, Loan programs—Agriculture.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

**PART 1941—OPERATING LOANS**

1. The authority citation for part 1941 is revised to read as follows:

Authority: 7 U.S.C. 1889; 7 CFR 2.23; 7 CFR 2.70.

**Subpart A—Operating Loan Policies, Procedures, and Authorizations**

2. Section 1941.17 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

**§ 1941.17 Loan limitations.**

(b) The Administrator may restrict loans for financing the production of agricultural commodities, such as crops, livestock, or livestock products, for such periods as are necessary, when such items are in surplus production, the supply is depressing prices and/or other Governmental (USDA) action is being taken to reduce production. A Notice will be published in the Federal Register whenever the Administrator decides to impose such a restriction. The Notice will state the commodity which is in surplus, the beginning and ending dates of the restriction, and the reason for the restriction. A copy of the Notice will be distributed to FmHA offices.

**PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION**

3. The authority citation for Part 1943 is revised to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

**Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations**

4. Section 1943.17 is amended by adding paragraph (d) to read as follows:

**§ 1943.17 Loan limitations.**

(d) The Administrator may restrict loans for financing farms that produce agricultural commodities such as crops, livestock, or livestock products, for such periods as are necessary, when such items are in surplus production, the supply is depressing prices and/or other Governmental (USDA) action is being taken to reduce production. A Notice will be published in the Federal Register whenever the Administrator decides to impose such a restriction. The Notice will state the commodity which is in surplus, the beginning and ending dates of the restriction, and the reason for the restriction. A copy of the Notice will be distributed to FmHA offices.

**PART 1980—GENERAL**

5. The authority citation for Part 1980 is revised to read as follows:

Authority: 7 CFR 1989; 42 U.S.C. 1490; 5 U.S.C. 301; 88 Stat 392; 7 CFR 2.23; 7 CFR 2.70

**Subpart B—Farmer Program Loans**

6. Section 1980.101 is amended by adding paragraph (f) to read as follows:

**§ 1980.101 Introduction.**

(f) *Restrictions.* The Administrator may restrict guarantees of loans for financing the production of and the purchase of farms that produce agricultural commodities such as crops, livestock, or livestock products, for such periods as are necessary, when such items are in surplus production, the supply is depressing prices and/or other Governmental (USDA) action is being taken to reduce production. A Notice will be published in the Federal Register whenever the Administrator decides to impose such a restriction. The Notice will state the commodity which is in surplus, the beginning and ending dates of the restriction, and the reason for the restriction. A copy of the Notice will be distributed to FmHA offices.

Dated: April 26, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85-28597 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-07-M



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Social Security Administration

## 20 CFR Part 404

## Federal Old-Age, Survivors and Disability Insurance; Coverage of Employees of State and Local Governments; Extension for State Assessments, etc.

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** In these proposed regulations, we are revising our rules on agreeing to extensions of the periods during which we may assess a State for amounts due and in which a State may file its claim for refund of, or credit for, overpayments under its coverage agreement with the Secretary of Health and Human Services. (Coverage of services performed by State and local governmental employees is by agreement under Section 218 of the Social Security Act (the Act)). We will agree to extend or reextend the time limit for no more than 6 months at a time and, further, will enter into reextension agreements only if certain conditions are met. With these revisions of the rules, we believe we will be more closely complying with the intent of section 218 (q) and (r) of the Act.

**DATES:** Comments must be submitted on or before January 31, 1986.

**ADDRESSES:** Comments should be submitted in writing to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operating Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Jack Schanberger, Room 3-B-4 Operations Building, 6401 Boulevard, Baltimore, Maryland 21235, (301) 594-6785.

**SUPPLEMENTARY INFORMATION:** Section 218(q)(4)(A) of the Act provides that a State and the Secretary of Health and Human Services may agree in writing to extend or reextend the period specified in section 218(q)(2) in which we may assess a State for amounts due to the Secretary of the Treasury for the Social Security coverage of services performed

by certain State and local governmental employees. Section 218(r)(2)(A) of the Act similarly provides for a State and the Secretary to agree in writing to extend the specified period in which a State may file a claim for a credit or refund of its overpayments. The purpose of the time limits, which became effective January 1, 1982, is to eliminate the need for the Secretary and the States to investigate the accuracy of contributions paid many years in the past and to eliminate the need for the States to keep records of employment and wages for many years.

We believe that our current policy on extensions has not had the effect intended by the law because of the increased administrative burden on the States and SSA as a result of easily available extensions and reextensions. Therefore, we are changing our policy to achieve more efficient and effective administration. Accordingly, we propose to revise §§ 404.1281 and 404.1286 to provide that we will agree to extensions and reextensions for no more than 6 months at a time. In addition, the proposed extension or reextension agreement must involve and identify a known issue or reporting error, and must also identify the periods involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which it applies. Further, we will enter into a reextension agreement only if at least one of five specified conditions is met.

## Regulatory Procedures

**Executive Order 12291**—These proposed regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation because they affect only the States' administration of their coverage agreements with SSA. Therefore, a regulatory impact analysis is not required.

**Paperwork Reduction Act**—These proposed regulations contain reporting requirements in 20 CFR 404.1281 and 404.1286. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we are submitting a copy of the proposed rule to the Office of Management and Budget for review of the reporting requirements. Other organizations and individuals desiring to submit comments on the reporting requirements should direct them to the agency official designated for this purpose, whose name appears in the preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 3208, Washington, D.C. 20503, Attention: Desk Officer for HHS.

**Regulatory Flexibility Act**—We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they involve only exceptions to the time limitations on assessments of and claims for credit for, or refund of, amount due or overpaid, respectively, by States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance, 13.803 Social Security—Retirement Insurance, 13.805 Social Security—Survivors Insurance)

## List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits, Disability benefits, Old-age, survivors, and disability insurance.

Dated: September 26, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved:

Margaret M. Heckler,

Secretary of Health and Human Services.

## PART 404—[AMENDED]

Subpart M of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations in amended as follows:

1. The authority citation for Subpart M is revised to read as follows:

Authority: Secs. 205, 218, and 1102, of the Social Security Act, 53 Stat. 1368, 64 Stat. 514, 49 Stat. 647; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 405, 418, and 1302.

2. Section 404.1281 is amended by revising paragraph (a) and by deleting the authority citation, at the end of the section to read as follows:

## § 404.1281 Exception to the periods of limitation.

(a)(1) *Extension by agreement.* The applicable time period described in § 404.1280 for assessment of an amount due may, before the expiration of such period, be extended for no more than 6 months by written agreement between the State and the Secretary. The agreement must involve and identify a known issue or reporting error. It must identify the periods involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which the agreement applies. The extension of the period of limitation shall not become effective until the agreement is signed by the appropriate State official and the

Secretary. (Sec. § 404.3(c) for the applicable rule where periods of limitation expire on nonwork days.) An assessment made by the Secretary before the extended time limit ends shall be considered to have been made within the time period limitation specified in section 218(q)(2) of the Act. (See § 404.1280(b)).

(2) *Reextension.* An extension agreement provide for in paragraph (a)(1) of this section may be reextended by written agreement between the State and the Secretary for no more than 6 months at a time beyond the expiration of the prior extension or reextension agreement, and only if one of the following conditions is met:

(i) Litigation (including intra-State litigation) or a review under §§ 404.1270 or 404.1275 involving wage reports or corrections or the same issue is pending; or

(ii) The State is actively pursuing corrections of a known error which require additional time to complete; or

(iii) The Social Security Administration is developing a coverage or wage issue which was being considered before the statute of limitations expired and additional time is needed to make a determination; or

(iv) The Social Security Administration has not issued to the State a final audit statement on the State's wage or correction reports; or

(v) There is pending Federal legislation which may substantially affect the issue in question, or the issue has national implications.

3. Section 404.1286 is amended by revising paragraph (a) and by deleting the authority citation at the end of the section to read as follows:

**§ 404.1286 Exceptions to the periods of limitation.**

(a)(1) *Extension by agreement.* The applicable time period described in § 404.1285 for filing a claim for credit for, or refund of, an overpayment may, before the expiration of such period, be extended for no more than 6 months by written agreement between the State and the Secretary. The agreement must involve and identify a known issue or reporting error. It must also identify the period involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which the agreement applies. The extension of the period of limitation shall not become effective until the agreement is signed by the appropriate State official and the Secretary. (See § 404.3(c) for the applicable rule where periods of

limitation expire on nonwork days.) A claim for credit or refund filed by the State before the extended time limit ends shall be considered to have been filed within the time period limitation specified in section 218(r)(1) of the Act. (See § 404.1285).

(2) *Reextension.* An extension agreement provided for in paragraph (a)(1) of this section may be reextended by written agreement between the State and the Secretary for no more than 6 months at a time beyond the expiration of the prior extension or reextension agreement, and only if one of the following conditions is met:

(1) Litigation (including intra-State litigation) or a review under §§ 404.1270 or 404.1275 involving wage reports or corrections on the same issue is pending; or

(ii) The state is actively pursuing corrections of a known error which require additional time to complete; or

(iii) The Social Security Administration is developing a coverage or wage issue which was being considered before the statute of limitations expired and additional time is needed to make a determination; or

(iv) The Social Security Administration has not issued to the State a final audit statement on the State's wage or correction reports; or

(v) There is pending Federal legislation which may substantially affect the issue in question, or the issue has national implications.

[FR Doc. 85-28601 Filed 11-29-85; 8:45 am]  
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## Food and Drug Administration

### 21 CFR Part 163

[Docket No. 85N-0501]

#### Chocolate Products; Advance Notice of Proposed Rulemaking on the Possible Amendment of the U.S. Standards of Identity

**AGENCY:** Food and Drug Administration.  
**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Codex Standard for Chocolate (Codex Standard 87-1981) (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability of and need for amending the U.S. standards of identity for these foods to achieve consistency with the Codex standard. The Codex standard was submitted to

the United States for consideration for acceptance. If the comments received do not support the need to amend the U.S. standards of identity for these foods, FDA will not propose their amendment.

**DATE:** Comments by January 31, 1986.

**ADDRESS:** Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Arthur R. Johnson, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0112.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The Codex Committee for Cocoa Products and Chocolate has developed a number of Codex standards, among which is the standard for chocolate (Codex Standard 87-1981).

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) or to appropriately revise an existing standard to incorporate the provisions

within the U.S. standard. At present, the United States has applicable standards of identity for chocolate liquor (21 CFR 163.111), sweet chocolate (21 CFR 163.123), milk chocolate (21 CFR 163.130), buttermilk chocolate (21 CFR 163.135), skim milk chocolate (21 CFR 163.140), and mixed dairy product chocolates (21 CFR 163.145).

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for amending the U.S. standards of identity for these foods; (2) the specific provisions of the Codex standard; (3) additional or different requirements that should be in the U.S. standards of identity; and (4) any other pertinent points.

FDA advises that if the comments received do not support the need to amend the U.S. standards of identity for these foods, no amendment will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission of the differences between the Codex and U.S. requirements and that imported foods may move freely in interstate commerce in this country, providing they comply with the applicable U.S. laws and regulations which include the U.S. standards of identity for chocolate products.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex standard for chocolate specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, it is FDA's policy to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any amendments to the U.S. standard of identity proposed pursuant to his notice.

For the benefit of interested persons who may wish to submit comments relative to this notice, FDA points out that the following major differences

exist between the Codex standard for chocolate and the U.S. standards of identity for chocolate products:

(1) The Codex standard for chocolate defines 14 products. The current U.S. standards in 21 CFR Part 163 also define 14 cacao products. Of these, six products have similar, but not identical, counterparts in the Codex standard. The six U.S. standards are chocolate liquor, § 163.111; sweet chocolate, § 163.123; milk chocolate, § 163.130; buttermilk chocolate, § 163.135; skim milk chocolate, § 163.140; and mixed dairy product chocolates, § 163.145.

The U.S. standards also define three chocolate coatings containing vegetable fat, other than cacao fat, which have no counterparts in the Codex standards, namely: Sweet cocoa and vegetable fat (other than cacao fat) coating, § 163.150; sweet chocolate and vegetable fat (other than cacao fat) coating, § 163.153; and milk chocolate and vegetable fat (other than cacao fat) coating, § 163.155.

In addition, 21 CFR Part 163 includes a definition and standard of identity for cacao nibs, § 163.110, one of the products now being considered in the Codex draft standard for Cacao (Cacao) Nib, Cacao (Cacao) Mass, Cocoa Press Cake, and Cocoa Dust (Cocoa Fines).

The remaining four U.S. standards in 21 CFR Part 163 define cocoa powders, namely: Breakfast cocoa, § 163.112; cocoa, § 163.113; low-fat cocoa, § 163.114; and cocoa with dioctyl sodium sulfosuccinate for manufacturing, § 163.117. The Codex standard for cocoa powders (cocoas) (Codex Standard 105-1981) is being considered for adoption in a separate notice in this issue of the *Federal Register*.

(2) The U.S. standards require that chocolate products be made from chocolate liquor as the characterizing ingredient, with or without the addition of cacao fat, or cocoa, or both. The Codex standards are less restrictive and apply to various types of homogeneous products prepared from cocoa nib, cocoa mass, cocoa press cake, and cocoa powder with the addition of optional ingredients.

(3) The Codex standard in 2.1.3, 2.1.6, 2.1.9, 7.1.3, 7.1.6, and 7.1.9 includes three products designated as "Couverture-chocolates" which are suitable for covering purposes. The compositional requirements differ in some respects from the requirements for the counterparts which are not couvertures. The U.S. standards permit the appropriate chocolate products to be designated alternatively as coatings.

(4) The U.S. standards do not provide for specific shapes or forms such as the vermicelli or flakes described in the

Codex standard in 2.1.11, 2.1.12, 2.1.13, 2.1.14, 7.1.11, 7.1.12, 7.1.13, and 7.1.14.

(5) The Codex standard in 4.1 and 4.2 provides for the use of neutralizing agents and emulsifiers which are not listed as optional ingredients in the U.S. standards of identity.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

#### List of Subjects in 21 CFR Part 163

Cocoa products, Chocolate, Food standards.

The Codex standard under consideration is as follows:

#### Codex Stan 87-1981—Codex Standard for Chocolate<sup>1</sup>

##### (World-wide Standard)

1. *Scope* The standard applies to various types of the homogeneous product prepared from cocoa nib, cocoa mass, cocoa press cake and/or cocoa powder with additions such as sugars, cocoa butter, milk products and optional ingredients provided for in the standard according to the types of chocolate desired, and to the above product to which ingredients or flavouring substances have been added in order to modify in a characteristic manner the organoleptic properties of the final product.

##### 2. Description

###### 2.1 Chocolate

The homogeneous products described hereunder and complying with the compositional requirements of sub-section 3.1 are obtained by an adequate process of manufacture from a mixture of one or more of the following (as defined in the *Standard for Cocoa (Cacao) Beans, Cocoa (Cacao) Nib, Cocoa (Cacao) Mass, Cocoa Press Cake and Cocoa Dust (Cocoa Fines)*): cocoa nib, cocoa mass, cocoa press cake, cocoa powder including fat reduced cocoa powder, with or without the addition of cocoa butters (as defined in the Codex Standard for Cocoa Butters (Ref. CODEX STAN 86-1981) with or without permitted optional ingredients, and/or flavouring agents, and for

2.1.1 Chocolate with the addition of sugars (3.1.1)

2.1.2 Unsweetened Chocolate without the addition of sugars (3.1.20)

2.1.3 Couverture Chocolate with the addition of sugars (3.1.3) and which is suitable for covering purposes

2.1.4 Sweet (Plain) Chocolate with the addition of sugars (3.1.4)

2.1.5 Milk Chocolate with the addition of sugars and milk solids (3.1.5)

<sup>1</sup> Formerly CAC/RS 87-1976.

2.1.6 Milk Couverture Chocolate with the addition of sugars and milk solids (3.1.6) and which is suitable for covering purposes

2.1.7 Milk Chocolate with High Milk Content with the addition of sugars and milk solids (3.1.7)

2.1.8 Skimmed Milk Chocolate with the addition of sugars and skimmed milk solids (3.1.8)

2.1.9 Skimmed Milk Couverture Chocolate with the addition of sugars and skimmed milk solids (3.1.9) and which is suitable for covering purposes

2.1.10 Cream Chocolate with the addition of sugars and cream and milk solids (3.1.10)

2.1.11 Chocolate Vermicelli with the addition of sugars (3.1.11) and which is in the form of grains

2.1.12 Chocolate Flakes with the addition of sugars (3.1.12) and which is in the form of flakes

2.1.13 Milk Chocolate Vermicelli with the addition of sugars and milk solids (3.1.13) and which is in the form of grains

2.1.14 Milk Chocolate Flakes with the addition of sugars and milk solids (3.1.14) and which is in the form of flakes.

## 2.2 Flavoured Chocolate

Flavoured Chocolate is one of the chocolates defined under Sections 2.1.1 through 2.1.10 to which flavouring agents, as permitted in section 4.3 have been added in amounts such as to impart to the final product the organoleptic characteristics claimed in the name of the food.

2.3 Sugars, for the purpose of this standard include fructose and those sugars for which standards have been elaborated by the Codex Alimentarius Commission.

## 3. ESSENTIAL COMPOSITION AND QUALITY FACTORS

### 3.1 Composition (% calculated on the dry matter in the product)

Product	Constituents	Cocoa Butter	Fat-free Cocoa Solids	Total Cocoa Solids	Milk Fat	Fat-free Milk Solids *	Total Fat	Sugars
3.1.1	Chocolate	≥ 18	≥ 14	≥ 35				
3.1.2	Unsweetened Chocolate	≥ 50 - < 58						
3.1.3	Couverture Chocolate	≥ 11	≥ 2.5	≥ 35				
3.1.4	Sweet (plain) Chocolate	≥ 18	≥ 12	≥ 30				
3.1.5	Milk Chocolate		≥ 2.5	≥ 25	≥ 3.5	≥ 10.5	≥ 25	≤ 55
3.1.6	Milk Couverture Chocolate		≥ 2.5	≥ 25	≥ 3.5	≥ 10.5	≥ 31	≤ 55
3.1.7	Milk Chocolate with High Milk Content		≥ 2.5	≥ 20	≥ 5	≥ 15	≥ 25	≤ 55
3.1.8	Skimmed Milk Chocolate		≥ 2.5	≥ 25	≤ 0.5	≥ 14	≥ 25	≤ 55
3.1.9	Skimmed Milk Couverture Chocolate		≥ 2.5	≥ 25	≤ 0.5	≥ 14	≥ 31	≤ 55
3.1.10	Cream Chocolate		≥ 2.5	≥ 25	≥ 7	≥ 3 - < 14	≥ 25	≤ 55
3.1.11	Chocolate Vermicelli	≥ 12	≥ 14	≥ 32				
3.1.12	Chocolate Flakes							
3.1.13	Milk Chocolate Vermicelli		≥ 2.5	≥ 20	≥ 3.5	≥ 10.5	≥ 12	≤ 66
3.1.14	Milk Chocolate Flakes		≥ 2.5	≥ 20	≥ 3.5	≥ 10.5	≥ 12	≤ 66

\* in their natural proportions

## 3.2 Flavoured Chocolate

3.2.1 Coffee-chocolate; not less than 1.5% m/m roasted ground coffee or the corresponding amount of soluble coffee.

3.2.2 Other flavoured chocolate types: sufficient amount of flavouring agents for imparting to the final product the organoleptic characteristics claimed in the name of the food.

## 3.3 Optional Ingredients

	Maximum level	Food
3.3.1 Spices	in small quantities to balance flavour	Products described under 2.1 and 2.2
3.3.2 Salt (sodium chloride)		

	Maximum level	Food
3.3.3 Milk solids (one or more of the components to be found in dry whole milk)	not more than 5% m/m <sub>w</sub> calculated on the dry matter	Chocolate and Couverture Chocolate, Unsweetened Chocolate, Sweet (plain) Chocolate, Chocolate Vermicelli and Chocolate Flakes

## 4. FOOD ADDITIVES

4.1 Alkalinizing and neutralizing agents carried over in proportion to the maximum quantity as provided for in the *Standard for Cocoa (Cocoa) Beans, Cocoa (Cocoa) Nib, (Cocoa) Mass, Cocoa Press Cake and Cocoa Dust (Cocoa Fines)*

### 4.2 Emulsifiers

	Maximum level	Food
4.2.1 Mono- and diglycerides of edible fatty acids	15 g/kg	Products described under 2.1 and 2.2
4.2.2 Lecithin	5 g/kg of the acetone insoluble component of lecithin	Products described under 2.1.1-2.1.10
	10 g/kg of the acetone insoluble component of lecithin	Products described under 2.1.11-2.1.14
4.2.3 Ammonium salts of phosphatidic acids	7 g/kg	Products described under 2.1.1-2.1.10
4.2.4 Polyglycerol polynicotinate	5 g/kg	Products described under 2.1.1-2.1.10
4.2.5 Sorbitan monostearate	10 g/kg	Products described under 2.1.1-2.1.10

	Maximum level	Food
4.2.6 Sorbitan tristearate	10 g/kg	Products described under 2.1.1-2.1.10
4.2.7 Polyoxyethylene (20) sorbitan monostearate	10 g/kg	Products described under 2.1.1-2.1.10
4.2.8 Total emulsifiers	15 g/kg singly or in combination	Products described under 2.1.1-2.1.10
4.3 Flavouring agents		
4.3.1 Natural flavours as defined in the Codex Alimentarius, and their synthetic equivalents, except those which would imitate natural chocolate or milk flavours <sup>1</sup>	in small quantities to balance flavour	Products described under 2.1 and 2.2
4.3.2 Vanillin		
4.3.3 Ethyl vanillin		
5. Contaminants		

<sup>1</sup> Temporarily endorsed.

	Maximum Level	Food
5.1 Arsenic (As)	0.5 mg/kg	Products described under 2.1 and 2.2 except Unsweetened Chocolate
	1 mg/kg	Unsweetened Chocolate
5.2 Copper (Cu)	15 mg/kg	Products described under 2.1 and 2.2 except Unsweetened Chocolate
	30 mg/kg	Unsweetened Chocolate
5.3 Lead (Pb)	1 mg/kg	Products described under 2.1 and 2.2 except Unsweetened Chocolate
	2 mg/kg	Unsweetened Chocolate

## 6. Hygiene

6.1 It is recommended that the products covered by the provisions of this standard be prepared in accordance with the appropriate sections of the Recommended International Code of Practice—General Principles of Food Hygiene (Ref. No. CAC/RCP 1-1969 Rev. 1).

6.2 To the extent possible in good manufacturing practice, the products shall be free from objectionable matter.

6.3 When tested by appropriate methods of sampling and examination, the products shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

6.4 When tested by appropriate methods of sampling and analysis, the products shall be free of pathogenic microorganisms.

## 7. Labelling<sup>2</sup>

<sup>2</sup> The use of the description "chocolate" in the present section does not exclude the same term being employed in a future standard related to Composite Chocolate to describe a chocolate to which certain edible substances have been added in a form which is practically indiscernible in quantities not exceeding 5% m/m of the final product.

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CODEX STAN 1-1981) the following declarations shall be made:

### 7.1 Designation of the Product

#### 7.1.1 Chocolate

Products described under Section 2.1.1 and complying with the appropriate requirements of Section 3.1.1 of the standard shall be designated "chocolate".

#### 7.1.2 Unsweetened Chocolate

Products described under Section 2.1.2 and complying with the appropriate requirements of Section 3.1.2 of the standard shall be designated "unsweetened chocolate".

#### 7.1.3 Couverture Chocolate

Products described under Section 2.1.3 and complying with the appropriate requirements of Section 3.1.3 of the standard shall be designated "couverture chocolate". Couverture chocolate containing not less than 16% m/m fat-free cocoa solids, calculated on the dry matter, may be designated "dark couverture chocolate".

#### 7.1.4 Sweet or Plain Chocolate

Products described under Section 2.1.4 and complying with the appropriate requirements of Section 3.1.4 of the standard shall be designated "sweet chocolate" or "plain chocolate".

#### 7.1.5 Milk Chocolate<sup>3</sup>

Products described under Section 2.1.5 and complying with Section 3.1.5 of the standard shall be designated "milk chocolate".

#### 7.1.6 Milk Couverture Chocolate

Products described under Section 2.1.6 and complying with Section 3.1.6 of the standard shall be designated "milk couverture chocolate".

#### 7.1.7 Milk Chocolate with High Milk Content<sup>3</sup>

Products described under Section 2.1.7 and complying with Section 3.1.7 of the standard shall be designated "milk chocolate". The product shall also bear percentage declaration of minimum cocoa solids and minimum milk solids in close proximity to the name.

#### 7.1.8 Skimmed Milk Chocolate

Products described under Section 2.1.8 and complying with Section 3.1.8 of the standard shall be designated "skimmed milk chocolate".

#### 7.1.9 Skimmed Milk Couverture Chocolate

Products described under Section 2.1.9 and complying with Section 3.1.9 of the standard shall be designated "skimmed milk couverture chocolate".

#### 7.1.10 Cream Chocolate

Products described under Section 2.1.10 and complying with Section 3.1.10 of the standard shall be designated "cream chocolate".

#### 7.1.11 Chocolate Vermicelli

Products described under Section 2.1.11 and complying with Section 3.1.11 of the standard shall be designated "chocolate vermicelli".

#### 7.1.12 Chocolate Flakes

Products described under Section 2.1.12 and complying with Section 3.1.12 of the standard shall be designated "chocolate flakes".

#### 7.1.13 Milk Chocolate Vermicelli

Products described under Section 2.1.13 and complying with Section 3.1.13 of the standard shall be designated "milk chocolate vermicelli".

#### 7.1.14 Milk Chocolate Flakes

Products described under Section 2.1.14 and complying with Section 3.1.14 of the standard shall be designated "milk chocolate flakes".

#### 7.1.15 Flavoured Chocolate

Products described under Section 2.2 and complying with Section 3.2 shall be designated "flavoured chocolate".

7.1.15.1 The characterizing flavour, other than chocolate flavour, shall be declared.

7.1.15.2 Ingredients which are especially aromatic and characterize the product shall form part of the name of the product (e.g. Mocca Chocolate).

#### 7.2 List of Ingredients

A complete list of ingredients shall be declared in descending order of proportion, it being provided that any of the Cocoa Butters listed in the Standard for Cocoa Butters under sub-sections 2.2.1 to 2.2.4 may be declared in the list of ingredients as "Cocoa Butter" but that ingredients which have been alkalinized shall be declared as "alkalinized x" (where "x" is the ingredient).

#### 7.3 Declaration of Minimum Cocoa and Milk Solids Content

7.3.1 All chocolate products covered by the standard shall carry, in close proximity to the name, a declaration of cocoa solids and also, for milk chocolate products, a figure comprised of the quantity of fat free milk solids and milk fat except that governments of countries in which different names are used to differentiate the products may allow for no declaration of either or both.

7.3.2 Couverture Chocolate, Milk Couverture Chocolate and Skimmed Milk Couverture Chocolate shall carry an additional declaration of the cocoa butter content of the product.

#### 7.4 Net Contents

7.4.1 The net content shall be declared by weight in either the metric system ("System International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

7.4.2 Small units of up to 25 g may be excluded from a declaration of net weight on the label.

#### 7.5 Name and Address

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

#### 7.6 Country of origin

7.6.1 The country of origin of the products covered by the standard shall be declared, unless they are sold within the country of origin, in which case the country of origin need not be declared.

7.6.2 When a food undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

#### 7.7 Lot Identification

Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

<sup>3</sup> See also provision under 7.3.1.

8. *Methods of analysis and Sampling*

8.1 *Determination of Total Ash* (for all products described under Sections 2.1 and 2.2)

According to AOAC—Office International du Cacao et du Chocolat method, AOAC (1975) XII 13.003.

8.2 *Determination of percentage of cocoa butter* (for products described under sub-sections 2.1.1, 2.1.2, 2.1.3, 2.1.4, 3.1.11 and 3.1.12).

Through the OICC-AOAC method for total fat. OICC, 8a/1972 and AOAC (1975) XII 13.035, 13.036 (common text).

Fat is petroleum ether extracted in a Soxhlet apparatus and is expressed as g fat per 100 g sample.

8.3 *Determination of Moisture Content (loss on drying)* (for products described under 2.1 and 2.2)

According to the method of the AOAC (1975) XII 13.001, 13.002 or the OICC 3E (1952).

8.4 *Determination of fat-free cocoa solids (or dry, fat-free cocoa mass)* (for sweet (plain) chocolate containing cocoa, sugar and fat only)

According to the method of the AOAC (1975) XII, 13.033. The weight of dry, fat-free cocoa mass is obtained after drying the residue from aqueous, alcohol and ether extraction and multiplying by a factor of 1.43.

8.5 *Determination of Total Fat* (for products described under 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.1.9, 2.1.10 and 2.1.11)

As for cocoa butter—see sub-section 8.2.

8.6 *Determination of Arsenic*  
According to the colorimetric (diethylthiocarbamate) method of the Association of Official Analytical Chemists, AOAC (1970) 25.011 (25.016, 25.017).

Results are expressed as mg arsenic/kg.

8.7 *Determination of Copper*<sup>4</sup>

According to the colorimetric (diethylthiocarbamate) method of the Association of Official Analytical Chemists, AOAC (1970) 25.023-8. Results are expressed as mg copper/kg.

8.8 *Determination of Lead*<sup>4</sup>

According to the AOAC (1970) method by the colorimetric dithizone determination procedure after complete digestion, AOAC (1970) 25.053 (25.047, 25.048).

For the convenience of the reader, FDA is also including the text of the existing U.S. standards of identity for chocolate products in 21 CFR Part 163 as follows:

§ 163.111 **Chocolate liquor.**

(a) Chocolate liquor, chocolate, baking chocolate, bitter chocolate, cooking chocolate, chocolate coating, bitter chocolate coating is the solid or semi-plastic food prepared by finely grinding cacao nibs. To such ground cacao nibs, cacao fat or a cocoa or both may be added in quantities needed to adjust the cacao fat content of the finished chocolate liquor. (For the

purposes of this section the term "cocoa" means breakfast cocoa, cocoa, low-fat cocoa, or any mixture of two or more of these.) Chocolate liquor may be spiced, flavored, or otherwise seasoned with one or more of the following optional ingredients, other than any such ingredient or combination of ingredients specified in paragraph (a) (1), (2), or (3) of this section which imparts a flavor that imitates the flavor of chocolate, milk, or butter:

- (1) Ground spice.
- (2) Ground vanilla beans; any natural food flavoring oil, oleoresin, or extract.
- (3) Vanillin, ethyl vanillin, or other artificial food flavoring.
- (4) Butter, milk fat, dried malted cereal extract, ground coffee, ground nut meats.
- (5) Salt.

Any optional ingredient used with the cacao beans or cacao nibs from which such chocolate liquor is prepared, or used with any cocoa added in preparing such chocolate liquor, shall be considered to be an optional ingredient used with such chocolate liquor. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with chocolate liquor; but for each 100 parts by weight of cacao nibs used in preparing the chocolate liquor, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished chocolate liquor contains not less than 50 percent and not more than 58 percent by weight of cacao fat. Unless the chocolate liquor is seasoned with butter, milkfat, or ground nut meats, the percentage of cacao fat is determined by the method prescribed under "Fat Method I—Official Final Action" in the "official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 13.031, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is seasoned with an optional ingredient specified in paragraph (a)(1) of this section the label shall bear the statement "Spiced", "Spice added", "With added spice", "Spiced with \_\_\_\_\_", or "With added \_\_\_\_\_", the blank being filled in with the specific common name of the spice used.

(2) When the food is flavored with an optional ingredient specified in paragraph (a)(2) of this section, the label shall bear the statement "Flavored", "Flavoring added", "With added flavoring", or "Flavored with \_\_\_\_\_", "\_\_\_\_\_added", or "With added \_\_\_\_\_", the blank being filled in with the specific common name of the flavoring used.

(3) When the food is flavored with an optional ingredient specified in paragraph (a)(3) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring added", "With artificial flavoring", "Artificially flavored with \_\_\_\_\_", or "With \_\_\_\_\_, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(4) When the food is seasoned with an optional ingredient specified in paragraph (a)(4) of this section, the label shall bear the statement "Seasoned with \_\_\_\_\_", the blank being filled in with the specific common name of the substance used as seasoning.

(5) When any optional alkali ingredient specified in § 163.110 (a) is used, the label shall bear the statement "Processed with alkali" but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

Label statements prescribed in paragraphs (b) (1) to (4), inclusive, of this section may be combined, as for example, "With added cinnamon, vanilla, and ethyl vanillin, an artificial flavoring".

§ 163.123 **Sweet chocolate.**

(a) Sweet chocolate, sweet chocolate coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) sweetened with one of the optional saccharine ingredients specified in paragraph (b) of this section. It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One of the optional emulsifying ingredients or combinations of

<sup>4</sup>Temporarily endorsed. May be replaced by Atomic Absorption Spectrophotometry (AAS) in the future.

ingredients specified in paragraph (d) of the section may be used, subject to the conditions therein prescribed. One or more of the optional dairy ingredients specified in paragraph (e) of this section may be used in such quantity that the finished sweet chocolate contains less than 12 percent by weight of milk constituent solids. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the sweet chocolate. The finished sweet chocolate contains not less than 15 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any multiplying the remainder by 2.2, dividing the result by the weight of the finished sweet chocolate, and multiplying the quotient by 100. Bittersweet chocolate is sweet chocolate which contains not less than 35 percent by weight of chocolate liquor, calculated in the same manner.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

- (1) Ground spice.
- (2) Ground vanilla beans; any natural food flavoring oil or oleoresin or extract.
- (3) Ground coffee.
- (4) Ground nut meats.
- (5) Honey, molasses, brown sugar, maple sugar.
- (6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraphs (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraphs (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraphs (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

(3) Skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk.

(4) Concentrated buttermilk, dried buttermilk.

(5) Malted milk.

(f) For the purpose of this section:

(1) The term "dextrose" means the anhydrous refined monosaccharide obtained from hydrolyzed starch.

(2) The term "dried corn sirup" means the product obtained by drying incompletely hydrolyzed cornstarch; its solids contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(3) The term "dried glucose sirup" means the product obtained by drying "glucose sirup". "Glucose sirup" is a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of any edible starch. The solids of glucose sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(g) "Semisweet chocolate", "bittersweet chocolate", "semisweet chocolate coating", and "bittersweet chocolate coating" are alternate names for sweet chocolate which contains not less than the minimum quantity of chocolate liquor prescribed for bittersweet chocolate by paragraph (a) of this section.

(h) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is flavored with an optional ingredient specified in paragraph (c)(8) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with \_\_\_\_\_", or "With \_\_\_\_\_, an artificial flavoring, the blank being filled in with the specific common name of the artificial flavoring used.

(2) When an optional emulsifying ingredient or combination of ingredients specified in paragraph (d) of this section is used, the label shall bear the statement "Emulsifier added", "With added emulsifier", or "\_\_\_\_\_ added as (an) emulsifier(s)", the blank being filled in with the common name(s) of the emulsifier(s) used.

(3) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali", but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

In cases where two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner which is appropriate and not misleading.

#### § 163.130 Milk chocolate.

(a) Milk chocolate, sweet milk chocolate, milk chocolate coating, sweet milk chocolate coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground,

prepared from chocolate liquor (with or without the addition of cacao fat) and one or more of the optional dairy ingredients specified in paragraph (b) of this section, sweetened with one of the optional saccharine ingredients specified in § 163.123 (b) and (f). It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One of the optional emulsifying ingredients or combinations of ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. If chocolate liquor with any optional ingredients specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the milk chocolate. The finished milk chocolate contains not less than 3.66 percent by weight of milk fat, not less than 12 percent by weight of milk solids, and not less than 10 percent by weight of chocolate liquor as calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished milk chocolate, and multiplying the quotient by 100.

(b) The optional dairy ingredients referred to in paragraph (a) of this section are milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk, butter, milk fat, cream, skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, and nonfat dry milk; but in any such ingredient or combination of two or more of such ingredients used, the weight of nonfat milk solids is not more than 2.43 times and not less than 1.20 times the weight of milk fat therein.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

- (1) Ground spice.
- (2) Ground vanilla beans; any natural food flavoring oil or oleoresin or extract.
- (3) Ground coffee.
- (4) Ground nut meats.
- (5) Honey, molasses, brown sugar, maple sugar.
- (6) Dried malted cereal extract.
- (7) Salt.
- (8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients

referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraphs (d) (1) (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraphs (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraphs (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is flavored with an optional ingredient specified in paragraph (c)(8) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with \_\_\_\_\_", or "With \_\_\_\_\_, and artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(2) When an optional emulsifying ingredient or combination of ingredients specified in paragraph (d) of this section is used, the label shall bear the statement "Emulsifier added", "With added emulsifier", or "\_\_\_\_\_ added as (an) emulsifier(s)", the blank being

filled in with the common name(s) of the emulsifier(s) used.

(3) When the optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali," but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

In cases where two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner which is appropriate not misleading.

#### § 163.135 Buttermilk chocolate.

Buttermilk chocolate, buttermilk chocolate coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(a) The dairy ingredients used are limited to sweet cream buttermilk, dried sweet cream buttermilk, or any combination of two or all of these.

(b) The finished buttermilk chocolate contains less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of sweet cream buttermilk solids.

#### § 163.140 Skim milk chocolate.

Skim milk chocolate, sweet, skim milk chocolate, skim milk chocolate coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(a) The dairy ingredients used are limited to skim milk concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk, and any combination of two or more of these.

(b) The finished skim milk chocolate contains less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of skim milk solids.

#### § 163.145 Mixed dairy product chocolates.

(a) The articles for which definitions and standards of identity are prescribed by this identity are prescribed by this section are the foods each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(1) The dairy ingredient used in each such article is a mixture of two or more of the following four components:



(i) Any dairy ingredient or combination of such ingredients specified in § 163.130(b) which is within the limits of the ratios specified therein for nonfat milk solids to milk fat.

(ii) One or more of the five skim milk ingredients specified in § 163.140.

(iii) One or more of the three sweet cream buttermilk ingredients specified in § 163.135.

(iv) Malted milk.

(2) Each of the finished articles may contain less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of milk constituent solids of the components used. The quantity of each component used in any such mixture is such that no combination component contributes less than one-third of the weight of milk constituent solids contributed by that component used in largest proportion. When any such mixture is of components (i) and (ii) of paragraph (a)(1) of this section, the quantity of nonfat milk solids in such mixture is more than 2.43 times the quantity of milk fat therein. For the purposes of paragraph (b) of this section, the designation of each of the components listed above is respectively "Milk", "Skim milk", "Buttermilk", and "Malted milk".

(b) The name of each such article is "Chocolate" "Chocolate coating" preceded by the designations prescribed by paragraph (a) of this section for each component of the dairy ingredients used, such designations appearing in the order of predominance, if any, of the weight of milk constituent solids in each such component, (e.g., "Milk and skim milk chocolate").

**§ 163.150 Sweet cocoa and vegetable fat (other than cacao fat) coating.**

Sweet cocoa and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for sweet chocolate by § 163.123, except that:

(a) In its preparation cocoa is used, instead of chocolate liquor, in such quantity that the finished food contains not less than 6.8 percent by weight of the nonfat cacao portion of such cocoa, calculated by subtracting from the weight of cocoa used the weight of cacao fat therein and the weight therein of alkali and seasoning ingredients, if any, dividing the remainder by the weight of the finished food, and multiplying the quotient by 100. (For the purposes of this section, the term "cocoa" means breakfast cocoa, cocoa, low-fat cocoa, or any mixture of two or more of these.)

(b) In its preparation is added one or any combination of two or more vegetable food oils, vegetable food fats, or vegetable food stearins, other than cacao fat, which oil, fat, stearin, or combination has a melting point higher than that of cacao fat. Any such oil or fat may be hydrogenated.

(c) The requirement of § 163.123(a) that the milk constituent solids be less than 12 percent by weight does not apply.

**§ 163.153 Sweet chocolate and vegetable fat (other than cacao fat) coating.**

(a) Sweet chocolate and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for sweet chocolate by § 163.123, except that:

(1) In its preparation there is added one or any combination of two or more vegetable food oils or vegetable food fats, other than cacao fat, which oil, fat, or combination may be hydrogenated and which has a melting point lower than that of cacao fat.

(2) Of the emulsifying ingredients and combinations of ingredients listed in § 163.123(d), only the ingredients specified in § 163.123(d) (1) and (2), alone or in combination, may be used subject to the limitation that the total quantity of these ingredients does not exceed 0.5 percent by weight of the finished food.

(b) The provisions of this section shall not be construed as applicable to any article by reason of the addition thereto of a vegetable food fat other than cacao fat as a carrier of emulsifying ingredients, as authorized and within the limits prescribed by § 163.123(d) (1) and (2).

**§ 163.155 Milk chocolate and vegetable fat (other than cacao fat) coating.**

(a) Milk chocolate and vegetable fat (other than cacao fat) coating, sweet milk chocolate and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(1) In its preparation there is added one or any combination of two or more vegetable food oils or vegetable food fats, other than cacao fat, which oil, fat, or combination may be hydrogenated and which has a melting point lower than that of cacao fat.

(2) Of the emulsifying ingredients and combinations of ingredients listed in § 163.130(d), only the ingredients

specified in § 163.130(d) (1) and (2), alone or in combination, may be used subject to the limitation that the total quantity of these ingredients does not exceed 0.5 percent by weight of the finished food.

(b) The provisions of this section shall not be construed as applicable to any article by reason of the addition thereto of a vegetable food fat other than cacao fat as a carrier of emulsifying ingredients, as authorized and within the limits prescribed by § 163.130(d) (1) and (2).

Interested persons may, on or before January 31, 1986, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of amending the U.S. standards for chocolate products should be supported by appropriate information and data regarding impact on small business consistent with requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: November 22, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 28350 Filed 11-29-85; 8:45 am]

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**21 CFR Part 163**

[Docket No. 85N-0500]

**Cocoa Powders; Advance Notice of Proposed Rulemaking on The Possible Amendment of U.S. Standards of Identity**

**AGENCY:** Food and Drug Administration.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Codex Standard for Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixtures (Codex Standard 105-1981) (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability of and need for amending the U.S. standards of identity for these foods to achieve consistency with the Codex standard.

The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need to amend the U.S. standards of identity for these foods, FDA will not propose their amendment.

**DATE:** Comments by January 31, 1986.

**ADDRESS:** Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Arthur R. Johnson, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0112.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The Codex Committee for Cocoa Products and Chocolate has developed a number of Codex standards, among which is the standard for Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixtures (Codex Standard 105-1981).

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) or to appropriately revise an existing

standard to incorporate the provisions within the U.S. standard. At present, the United States has standards of identity for breakfast cocoa (21 CFR 163.112); cocoa (21 CFR 163.113); low-fat cocoa (21 CFR 163.114); and cocoa with dioctyl sodium sulfosuccinate for manufacturing (21 CFR 163.117), which differ in some respects from the Codex standard.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for amending the U.S. standards of identity for these foods; (2) the specific provisions of the Codex standard; (3) additional or different requirements that should be in the U.S. standards of identity; and (4) any other pertinent points.

FDA advises that if the comments received do not support the need to amend the U.S. standards of identity for these foods, no amendments will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission of the differences between the Codex and U.S. requirements and that imported foods may move freely in interstate commerce in this country, providing they comply with the applicable U.S. laws and regulations which include the U.S. standards of identity for breakfast cocoa, cocoa, low-fat cocoa, and cocoa with dioctyl sodium sulfosuccinate for manufacturing.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex standard for cocoa powders (cocoas) and dry cocoa-sugar mixtures specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, it is FDA's policy to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any amendments to the U.S. standard of identity proposed pursuant to this notice.

For the benefit of interested persons who may wish to submit comments relative to this notice, FDA points out that the following major differences exist between the Codex standard for cocoa powders (cocoas) and dry cocoa-sugar mixtures and the U.S. standards of identity for breakfast cocoa, cocoa, low-fat cocoa, and cocoa with dioctyl sodium sulfosuccinate for manufacturing:

(1) The Codex standard for cocoa powders and dry cocoa-sugar mixtures defines two cocoa powders, namely: cocoa powder or cocoa in 3.1.1 containing less than 20 percent cocoa butter; and fat-reduced cocoa powder or fat-reduced cocoa in 3.1.2 containing less than 20 percent, but not less than 8 percent cocoa butter. The Codex standard in 3.1.1 and 3.1.2 also provides for six cocoa-sugar mixtures which have no counterparts in the U.S. standards. The current U.S. standards in 21 CFR Part 163 define 14 cacao products. Of these, four are cocoa products, namely: breakfast cocoa, § 163.112, containing not less than 22 percent cacao fat; cocoa, § 163.113, containing less than 22 percent, but not less than 10 percent cacao fat; low-fat cocoa, § 163.114, containing less than 10 percent cacao fat; and cocoa with dioctyl sodium sulfosuccinate for manufacturing, § 163.117. There is no Codex standard counterpart for cocoa with dioctyl sodium sulfosuccinate for manufacturing.

The U.S. standards also define three chocolate coatings containing vegetable fat other than cacao fat, which have no counterparts in the Codex standards, namely: sweet cocoa and vegetable fat (other than cacao fat) coating, § 163.150; sweet chocolate and vegetable fat (other than cacao fat) coating, § 163.153; and milk chocolate and vegetable fat (other than cacao fat) coating, § 163.155.

In addition, 21 CFR Part 163 includes a definition and standard of identity for cacao nibs, § 163.110, one of the products now being considered in the Codex draft standard for Cocoa (Cacao) Nib, Cocoa (Cacao) Mass, Cocoa Press Cake and Cocoa Dust (Cocoa Fines).

The remaining six U.S. standards in 21 CFR Part 163, namely: chocolate liquor, § 163.11; sweet chocolate, § 163.123; milk chocolate, § 163.130; buttermilk chocolate, § 163.135; skim milk chocolate, § 163.140; and mixed dairy product chocolates, § 163.145, define chocolate products which have similar, but not identical, counterparts defined in the Codex standard for chocolate products (Codex Standard 87-1981). The Codex standard for chocolate products is being considered for adoption in a

separate notice in this issue of the Federal Register.

(2) The Codex standard in 4.1 and 4.3 provides for the use of three neutralizing agents and four emulsifiers which are not listed as optional ingredients in the U.S. standards of identity.

(3) The Codex standard in 4.1 provides for a maximum level, singly or in combination, of 0.5 percent alkalinizing agents, expressed as anhydrous  $K_2CO_3$  on the fat-free cocoa fraction. The U.S. standards provide for not greater than 3 parts of alkalinizing agent per 100 parts of cocoa nibs used in the preparation of the cocoa, expressed as anhydrous  $K_2CO_3$ . The U.S. standards do not specify levels for alkalinizing agents in the cocoa products.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

#### List of Subjects in 21 CFR Part 163

Cocoa products, Chocolate, Food standards.

The Codex standard under consideration is as follows:

#### Codex Stan 105-1981—Codex Standard for Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixtures<sup>1</sup>

##### 1. Scope

This standard applies to cocoa powders (cocoas) and cocoa-sugar mixtures intended for direct consumption.

##### 2. Description

##### 2.1 Cocoa Products

2.1.1 Cocoa Powder and Fat-reduced Cocoa Powder are the products obtained by mechanical transformation into powder of cocoa press cake as defined in section 2.1.2.

2.1.2 Cocoa Press Cake is the product obtained by partial removal of the fat from Cocoa Nib or Cocoa Mass by mechanical means.

2.1.3 Cocoa-Sugar Mixture are preparations of cocoa powders and sugars only.

2.2 Sugars, for the purposes of this standard, include fructose and those sugars for which standards have been elaborated by the Codex Alimentarius Commission.

##### 3. Essential Composition and Quality Factors

##### 3.1 Essential Composition

##### 3.1.1 Cocoa Powder or Cocoa

Cocoa butter: not less than 20% m/m calculated on the dry matter.

Moisture content: not more than 7% m/m.

##### 3.1.1.1 Cocoa-Sugar Mixtures on Cocoa Powder Basis.

3.1.1.1.1 Sweetened Cocoa or Sweetened Cocoa Powder: not less than 25% m/m cocoa powder calculated on the dry matter.

3.1.1.1.2 Sweetened Cocoa Mix or Sweetened Mixture with Cocoa: not less than 20% m/m cocoa powder calculated on the dry matter.

3.1.1.1.3 Sweetened Cocoa-flavored Mix: less than 20% m/m cocoa powder calculated on the dry matter.

##### 3.1.2 Fat-reduced Cocoa Powder or Fat-reduce Cocoa

Cocoa butter: less than 20% m/m but not less than 8% m/m calculated on dry matter.

Moisture content: not more than 7% m/m.

##### 3.1.2.1 Cocoa-Sugar Mixtures on Fat-reduced Cocoa Power Basis

3.1.2.1.1 Sweetened Cocoa, Fat-reduced or Sweetened Cocoa Powder, Fat Reduced: not less than 25% m/m fat-reduced cocoa powder calculated on the dry matter.

3.1.2.1.2 Sweetened Cocoa Mix, Fat-reduced or Sweetened Mixture with Cocoa, Fat-reduced: not less than 20% m/m fat-reduced cocoa powder calculated on the dry matter.

3.1.2.1.3 Sweetened Cocoa-flavored Mix, Fat-reduced: less than 20% m/m fat-reduced cocoa powder calculated on the dry matter.

3.2 Optional Ingredients	Maximum level
3.2.1 Spices	limited by GMP
3.2.2 Salt (sodium chloride)	

#### 4. Food Additives

4.1 Alkalinizing Agents	Maximum level
4.1.1 Ammonium carbonate	0.5% m/m single or in combination, expressed as anhydrous $K_2CO_3$ on the fat-free cocoa fraction
4.1.1 Ammonium hydrogen carbonate	
4.1.3 Ammonium hydroxide	
4.1.4 Calcium carbonate	
4.1.5 Magnesium carbonate	
4.1.6 Magnesium hydroxide	0.5% m/m single or in combination on the cocoa fraction
4.1.7 Potassium carbonate	
4.1.8 Potassium hydrogen carbonate	
4.1.9 Potassium hydroxide	
4.1.10 Sodium carbonate	
4.1.11 Sodium hydrogen carbonate	
4.1.12 Sodium hydroxide	
4.2 Neutralizing Agents	Maximum level
4.2.1 Phosphoric acid	0.25%, expressed as $P_2O_5$ on the cocoa fraction
OR	
4.2.2 Citric acid	0.5% m/m single or in combination on the cocoa fraction
4.2.3 L-tartaric acid	
4.3 Emulsifiers	Maximum level
4.3.1 Individual emulsifiers:	1.5% m/m singly or in combination on the finished product
4.3.1.1 Mono- and di-glycerides of edible fatty acids	
4.3.1.2 Lecithin	1% m/m of the acetone insoluble component of lecithin
4.3.1.3 Ammonium salts of phosphoric acids	0.7% m/m on the finished product
4.3.1.4 Edible sucrose esters of fatty acids <sup>1</sup>	1% m/m on the finished product
4.3.2 Total emulsifiers listed in 4.3.1	1.5% m/m singly or in combination on the finished product

4.1 Alkalinizing Agents	Maximum level
4.4 Flavouring Agents	Maximum level
4.4.1 Natural flavours as defined in the Codex Alimentarius, and their synthetic equivalents other than those which would imitate natural chocolate or milk flavours <sup>1</sup>	limited by GMP
4.4.2 Vanillin Ethyl vanillin	in small amounts for flavour adjustment
4.5 Anti-caking Agents	Maximum level
4.5.1 Sodium silicoaluminate	1% m/m in Cocoa-Sugar Mixtures for vending machines only
4.5.2 Colloidal silicon dioxide	
4.5.3 Tricalcium phosphate	
<sup>1</sup> Temporarily endorsed.	
5. Contaminants	Maximum level on the cocoa fraction
5.1 Copper	50 mg/kg
5.2 Arsenic	1 mg/kg
5.5.3 Lead	2 mg/kg <sup>1</sup>
<sup>1</sup> Temporarily endorsed.	

#### 6. Hygiene

6.1 It is recommended that the products covered by the provisions of this standard be prepared in accordance with the appropriate sections of the Recommended International Code of Practice—General Principles of Food Hygiene (Ref. No. CAC/RCP1-1969 Rev. 1) as approved by the Codex Alimentarius Commission.

6.2 To the extent possible in good manufacturing practice, the products shall be free from objectionable matter.

6.3 When tested by appropriate methods of sampling and examination, the products shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

6.4 When tested by appropriate methods of sampling and analysis, the products shall be free of pathogenic microorganisms.

#### 7. Labelling

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CODEX STAN 1-1981) the following specific declarations shall be made:

##### 7.1 The Name of the Food

7.1.1 The name of the product described under Section 2.1.1 and complying with Section 3.1.1 of the standard shall be: "Cocoa Power" or "Cocoa" ("Poudre de cacao" or "cacao").

7.1.2 The name of the product described under Section 2.1.1 and complying with Section 3.1.2 of the standard shall be: "Fat-reduced Cocoa Powder" or "Fat-reduced Cocoa" ("Poudre de cacao fortement dégraissé" or "Cacao fortement dégraissé").

7.1.3 The name of the product described under Section 2.1.3 and complying with Section 3.1.1.1 of the standard shall be: "Sweetened Cocoa" or Sweetened Cocoa Powder" ("Cacao sucré" or "Poudre de cacao sucré").

7.1.4 The name of the product described under Section 2.1.3 and complying with

<sup>1</sup>Formerly CAC/RS 105-1978.

Section 3.1.1.1.2 of the standard shall be: "Sweetened Cocoa Mix" or "Sweetened Mixture with Cocoa" ("Préparation sucrée à base de cacao" or "mélange sucré avec cacao").

7.1.5 The name of the product described under Section 2.1.3 and complying with Section 3.1.1.1.3 of the standard shall be: "Sweetened Cocoa-flavoured Mix" ("Préparation sucrée au goût de cacao").

7.1.6 The name of the product described under Section 2.1.3 and complying with Section 3.1.2.1.1 of the standard shall be: "Sweetened Cocoa, Fat-reduced" or "Sweetened Cocoa Powder, Fat-reduced" ("Cacao sucré fortement dégraissé" or "poudre de cacao sucré fortement dégraissé").

7.1.7 The name of the product described under Section 2.1.3 and complying with Section 3.1.2.1.2 of the standard shall be: "Sweetened Cocoa Mix, Fat-reduced" or "Sweetened Mixture with Cocoa, Fat-reduced" ("Préparation Sucrée à base de cacao fortement dégraissé" or "mélange sucré avec cacao fortement dégraissé").

The name of the product described under Section 2.1.3 and complying with Section 3.1.2.1.3 of the standard shall be: "Sweetened Cocoa-flavoured Mix, Fat-reduced" ("Préparation sucrée au goût de cacao, fortement dégraissée").

7.1.9 The words "minimum cocoa powder" (or fatreduced cocoa powder) content x%" shall appear in close proximity to the name of the product where "x" is the actual percentage of cocoa powder in the product.

7.1.10 National laws should only permit the use of names other than those given in 7.1.3, 7.1.4, 7.1.5, 7.1.6, 7.1.7 or 7.1.8 in countries where such names are traditional, fully understood by the consumer and not misleading or deceptive with respect to other categories of product provided that any product with less than 25% of total cocoa powder or fat-reduced cocoa powder content shall not bear the term "chocolate" in its designation.

#### 7.2 List of Ingredients

A complete list of ingredients shall be given in descending order of proportion and alkalinizing and neutralizing agents, emulsifiers and flavouring agents shall be declared under generic or specific names.

#### 7.3 Net Contents

The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

#### 7.4 Name and Address

The name and address of the manufacturer, packer distributor, importer, exporter or vendor of the food shall be declared.

#### 7.5 Country of Origin

The country of origin of the products covered by the standard shall be declared, unless they are sold within the country of origin, in which case the country of origin need not be declared.

#### 7.6 Lot Identification

Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

#### 8 Methods of Analysis and Sampling

8.1 Determination of cocoa shell in cocoa nib, cocoa mass and cocoa press cake.<sup>1</sup> (to be elaborated)<sup>2</sup>

8.2 Determination of total ash in cocoa nib, cocoa mass and cocoa press cake<sup>1</sup>

According to the AOAC—Office International du Cacao et du Chocolat (OICC) method, AOAC (1975), XII, 13.003. Results are expressed as g total ash/100 g of the fatfree dry cocoa product.

8.3 Determination of ash insoluble in hydrochloric acid in cocoa nib, cocoa mass and cocoa press cake<sup>1</sup> (to be elaborated)<sup>2</sup>

8.4 Determination of cocoa butter content<sup>2</sup>

According to

(a) the OICC-AOAC method for total fat: IOCC 8a /1972 and AOAC (1975) 13.035, 13.036 (common text).

#### AND THROUGH

(b) the determination of total sterols content: OICC 14/1974<sup>3</sup> and GLC analysis of sterols: OICC 16/1973<sup>3</sup>

Results are expressed as g cocoa butter/100 g of the dry cocoa product.

8.5 Determination of moisture content (loss on drying)

According to the AOAC method (Official Methods of Analysis of the AOAC, 1970, 13.001–13.002) OR the method of the Office International du Cacao et du Chocolat, OICC 3E (1952).

In case of samples of certain cocoa products of high fat content, the method of the OICC could be more useful, as it uses sand. Sand would help in preventing the formation of a fat-layer which may interfere with drying.

Results are expressed as g moisture/100 g.

8.6 Determination of cocoa powder content (to be elaborated)<sup>4</sup>

8.7 Determination of fat-reduced cocoa powder content (to be elaborated)<sup>4</sup>

8.9 Determination of arsenic

According to the colorimetric silver diethyldithiocarbamate method of the Association of Official Analytical Chemists, AOAC (1975) 25.006–25.013.

Results are expressed as mg arsenic/kg.

8.10 Determination of copper<sup>5</sup>

According to the colorimetric (diethyldithiocarbamate) method of the Association of Official Analytical Chemists, AOAC (1970) 25.023–25.028.

Results are expressed as mg copper/kg.

8.11 Determination of Lead<sup>5</sup>

According to the AOAC (1970) method by the colorimetric dithizone determination procedure after complete digestion, AOAC (1970) 25.053 (25.047, 25.048).

For the convenience of the reader, FDA is also including the test of the existing U.S. standards of identity for cocoas.

#### § 163.112 Breakfast cocoa.

(a) Breakfast cocoa, high fat cocoa is the food prepared by pulverizing the

<sup>1</sup> See ALINORM 74/10, Appendix II, section 3.2.

<sup>2</sup> See ALINORM 74/10, Appendix II, section 8.1.

<sup>3</sup> To be endorsed when values of collaborative testing are available.

<sup>4</sup> See ALINORM 76/10, Appendix III, Section 8.1.

<sup>5</sup> Temporarily endorsed. May be replaced by Atomic Absorption Spectrophotometry (AAS) in the future.

residual material remaining after part of the cacao fat has been removed from ground cacao nibs. It may be spiced, flavored, or otherwise seasoned with one or more of the following optional ingredients, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter:

(1) Ground spice.

(2) Ground vanilla beans; any natural food flavoring oil, oleoresin, or extract.

(3) Vanillin, ethyl vanillin, or other artificial food flavoring.

(4) Salt.

Any optional ingredient used with the cacao beans, cacao nibs, or ground cacao nibs from which such breakfast cocoa is prepared shall be considered to be an optional ingredient used with such breakfast cocoa. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with breakfast cocoa; but for each 100 parts by weight of cacao nibs used in preparing the breakfast cocoa, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished breakfast cocoa contains not less than 22 percent of cacao fat, as determined by the method prescribed under "Fat Method I—Official Final Action" prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 13.031, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is seasoned with an optional ingredient specified in paragraph (a)(1) of this section, the label shall bear the statement "Spiced", "Spice added" "With added spice", "Spiced with —", or "With added —", the blank being filled in with the specific common name of the spice used.

(2) When the food is flavored with an optional ingredient specified in

paragraph (a)(2) of this section, the label shall bear the statement "Flavored", "Flavoring added", "With added flavoring", "Flavored with —", "— added", or "With added —", the blank being filled in with the specific common name of the flavoring used.

(3) When the food is flavored with an optional ingredient specified in paragraph (a)(3) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with —", or "With —, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(4) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali"; but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used. Label statements prescribed by paragraphs (b)(1) to (4), inclusive, of this section may be combined, as for example, "With added cinnamon, vanilla, and ethyl vanillin, an artificial flavoring".

#### §163.113 Cocoa.

Cocoa, medium fat cocoa conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for breakfast cocoa by § 163.112, except that it contains less than 22 percent but not less than 10 percent of cacao fat, as determined by the method referred to in § 163.112(a).

#### §163.114 Low-fat cocoa.

Low-fat cocoa conforms to the definition and standard of identity, and is subject to the requirements for label statement to the requirements for label statement of optional ingredients, prescribed for breakfast cocoa by § 163.112, except that it contains less than 10 percent of cacao fat as determined by the method referred to in § 163.112(a).

#### §163.117 Cocoa with dioctyl sodium sulfosuccinate for manufacturing.

(a) Cocoa with dioctyl sodium sulfosuccinate for manufacturing is the food additive complying with the provisions § 172.520 of this chapter. It conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for breakfast cocoa by § 163.113, or low-fat cocoa by § 163.112, or for cocoa by § 163.114, except that the food additive contains dioctyl sodium sulfosuccinate (complying with the requirements of

§ 172.810 of this chapter including the limit of not more than 0.4 percent by weight of the finished food additive).

(b) The name of the food additive is "cocoa with dioctyl sodium sulfosuccinate for manufacturing" to which is added any modifier of the word "cocoa" required by the definition and standard of identity to which the food additive otherwise conforms. When the food additive is used in a fabricated food, the words "for manufacturing" may be omitted from any declaration of ingredients required under § 101.4 of this chapter.

Interested persons may, on or before January 31, 1986, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of amending the U.S. standards for cocoas should be supported by appropriate information and data regarding impact on small business consistent with requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: November 21, 1985.

Sanford A. Miller,

Director, Center of Food Safety and Applied Nutrition.

[FR Doc. 85-28351 Filed 11-29-85; 8:45 am]

BILLING CODE 4160-01-M

#### 21 CFR Part 343

[Docket No. 77N-0094]

#### Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Drug Products for the Treatment and/or Prevention of Nocturnal Leg Muscle Cramps

##### Correction

In FR Doc. 85-24747, beginning on page 46588 in the issue of Friday, November 8, 1985, make the following corrections:

1. On page 46589, first column, second complete paragraph, third line from the bottom of that paragraph, "monograph" should read "nonmonograph".

2. On page 46591, third column, first complete paragraph, fourteenth line, "DL-x" should read "DL- $\alpha$ "

3. On page 46592, third column fourth paragraph, seventh line, "classified" should read "classifies".

BILLING CODE 1505-01-M

#### 21 CFR Part 357

[Docket No. 79N-0379]

#### Exocrine Pancreatic Insufficiency Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

##### Correction

In FR Doc. 85-26687, beginning on page 46594 in the issue of Friday, November 8, 1985, make the following corrections:

1. On page 46597, second column, fourth paragraph, thirteenth line, "testing" should read "treating".

2. On page 46598, first column, third line from the bottom of the page, the first entry "b." should read "6".

3. On page 46599, second column, third complete paragraph, fourth line, "Rm. 4-64" should read "Rm. 4-62".

BILLING CODE 1505-01-M

#### DEPARTMENT OF TRANSPORTATION

#### National Highway Traffic Safety Administration

#### 23 CFR Part 1325

[Docket No. 84-02; Notice 3]

#### Procedures for Transition to New National Driver Register

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.  
ACTION: Request for Comments.

SUMMARY: The National Highway Traffic Safety Administration has received a number of letters which raise objections to an issue addressed in the preamble to the agency's July 11, 1985 final rule (50 FR 28191) regarding Procedures for Transition to the New National Driver Register (NDR). This notice requests comments on the issue raised by these letters.

DATES: Comments must be received by January 2, 1986.

ADDRESS: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC, 20590. (Docket hours are 8 a.m. to 4 p.m.)

Copies of these letters may be obtained from Docket No. 84-02, Notice

2 in NHTSA's Technical Reference Division, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 8 a.m. to 4 p.m.)

**FOR FURTHER INFORMATION CONTACT:**

Mr. Clayton Hatch, Chief, National Driver Register (NTS-33), NHTSA, 400 Seventh Street, SW., Washington, DC 20590 or telephone (202) 426-4800.

**SUPPLEMENTARY INFORMATION:** On July 11, 1985 (50 FR 28191), the National Highway Traffic Safety Administration (NHTSA) issued a final rule regarding Procedures for Transition to the New National Driver Register. The preamble to the final rule provided, *inter alia*.

It was suggested in the comments that NDR include a mechanism whereby the inquiring State can request a driver license abstract automatically through the NDR. Driver license abstracts contain the complete driver history of individuals. Such information goes beyond the scope of the NDR as provided in the Act and, therefore, such a mechanism will not be included. [Emphasis in original]

NHTSA has received letters from Congressmen Oberstar and Barnes, Mr. Ken Nathanson, President of Citizens for Safe Drivers Against Drunk Drivers and Chronic Offenders, several states, insurance associations and concerned private citizens, which object to the agency's decision not to include the abstract request mechanism in the NDR. The letters indicate that the June 1980 NHTSA Report to Congress on the NDR, upon which the NDR Act of 1982 was based, and comments to the Notice of Proposed Rulemaking (NPRM), recommended inclusion of the driver license abstract request feature. Accordingly, they suggest that this feature be restored in the NDR.

They argue that this omission contradicts the intent of the Act and will result in unnecessary delays in the exchange of information. To request such information if the mechanism is not included, the inquiring State must request the driver license abstract through other means, such as through the mail, from the State of Record.

Some of the comments imply that the driver license abstract request feature would enable a State to obtain as well as request an abstract through the NDR. The feature has never been described in this manner. The driver license abstract request feature, which was recommended in the comments to the NPRM and in the 1980 Report to Congress, proposed to relay the request for the abstract through the NDR. The feature did not propose to relay the driver license abstract itself. Such a capability was never contemplated and is not authorized by the statute. The

driver license abstract request feature, if included, would be available only to States for purposes of State driver improvement or highway safety, and would enable the States to request through the NDR, only abstracts of records for which a match has been received. The feature could not, therefore, be used to request abstracts on behalf of any party other than a State.

NHTSA will reconsider its decision not to include the driver license abstract request feature in the NDR. The agency invites comments on this issue and specifically requests commenters to address the desirability of including the request mechanism in the NDR and whether requesting the complete driver history is an appropriate NDR function. To ensure that the pilot test program begins as scheduled, comments must be received by January 2, 1986. The agency notes that its reconsideration of this issue will not entail any revision to the final rule on transition procedures.

[Pub. L. 97-364, 98 Stat. 1740 (23 U.S.C. 401 note); delegations of authority at 49 CFR 1.50]

Issued on: November 22, 1985.

Diane K. Steed,

National Highway Traffic Safety  
Administrator.

[FR Doc. 85-28287 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. H-022E]

#### Hazard Communication; Disclosure of Trade Secrets to Nurses

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On November 25, 1983, OSHA published a final rule in the Federal Register entitled "Hazard Communication" (48 FR 53280) (29 CFR 1910.1200). Various aspects of the rule were subsequently challenged in the U.S. Court of Appeals for the Third Circuit. On May 24, 1985, the Third Circuit issued its decision on the rule, upholding the OSHA standard in most respects. *United Steelworkers of America v. Aucter*, 763 F.2d 728 (3d Cir. 1985).

OSHA's response to the Court's orders with regard to the Hazard Communication Standard's trade secret definition, access of employees and their

representatives to trade secrets, and scope of industries covered have been addressed in separate rulemaking actions (50 FR 48750, and 50 FR 48794, November 27, 1985)

In this publication, OSHA proposes to extend access to trade secrets to occupational health nurses in order to treat them the same as other health professionals.

**DATE:** Comments and requests for a hearing must be received on or before January 31, 1986.

**ADDRESS:** Written comments and requests for a hearing should be submitted, in quadruplicate, to the Docket Officer, Docket No. H-022E, Occupational Safety and Health Administration, Room N-3670, 200 Constitution Avenue, NW., Washington, DC 20210; (202)523-7894.

Written comments and requests for hearings received, as well as all other information already included in Docket H-022, will be available for inspection and copying in Room N-3670 at the above address, from 8:15 a.m. to 4:45 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3637, 200 Constitution Avenue, N.W., Washington, DC 20210; (202) 523-8148.

**SUPPLEMENTARY INFORMATION:** A detailed explanation of the trade secret issue has been provided in the preamble to the interim final rule. (50 FR 48750, November 27, 1985) Please refer to that document for background information.

In the final Hazard Communication Standard (48 FR 53280) (29 CFR 1910.1200), OSHA required non-emergency disclosure of trade secrets to physicians, industrial hygienists, toxicologists, and epidemiologists. OSHA did not list occupational health nurses among the types of health professionals who would be entitled to trade secret information in non-emergency situations. (Nurses are entitled to access in emergency situations under 29 CFR 1910.1200(i)(2)). At the time, OSHA had made a determination "that it is more appropriate, given the competing interests balanced in this standard, to entrust such information to the physician to whom a nurse would normally report". 48 FR 53338. In light of the Third Circuit's decision to provide trade secret access to employees and their representatives in addition to the listed health professionals (763 F.2d at 743), it would simply be incongruous to continue to exclude occupational health

nurses. Giving nurses access will ensure greater protection for employees since nurses are frequently the only health professional available at a plant site to provide services to exposed employees. Therefore, OSHA is proposing to add nurses to the list of health professionals entitled to trade secret access in non-emergency situations, § 1910.1200(i)(3), and is inviting comment on that proposal.

#### Economic Impact of Access for Occupational Health Nurses

OSHA proposes to add occupational health nurses to the list of health professionals entitled to non-emergency trade secret access under the Hazard Communication Standard. OSHA believes that their inclusion will reduce the costs to industry of the Court-ordered expansion of access to trade secrets. (See 50 FR 48750, November 27, 1985 for discussion regarding the economic impact of extending access to employees and designated representatives.)

There are 11,000 members of the American Association of Occupational Health Nurses (AAOHN). According to a survey of the AAOHN membership, 69 percent work in industry, and 52 percent of those have no physician backup. OSHA estimates that the approximately 4,000 (11,000 × 69% × 52%) occupational health nurses working in industry without physician backup would generate an average of one request a year for trade secret chemical identities and that they would serve as a funnel for requests from employees in the ratio of 1.5 requests per occupational health nurse. The excluded occupation health nurses are not expected to add to the number of requests, because they are working in areas outside of industry or working with other health professionals with whom they would coordinate their requests to avoid duplication.

The relevant subset of nurses is expected to generate approximately 4,000 requests per year and to absorb perhaps 6,000 requests that would have gone directly to chemical manufacturers and importers from the employees. OSHA previously estimated that requests from health professionals, employees and their designated representatives would range between 17,000 and 33,000 per year. Therefore, the granting of access to occupational health nurses will reduce the total number of requests to a range of about 15,000 to 31,000. This range of requests would cost from \$2.7 million to \$4.6 million, yielding a net cost reduction of \$2 million to \$3 million compared with the costs without the nurses. Based on

this analysis, OSHA has concluded that this is not a major rulemaking action.

#### Regulatory Flexibility Analysis

There are two regulatory alternatives regarding occupational health nurses—OSHA could include or exclude them from the set of persons who would be eligible to request access to trade secret chemical identities. Some indeterminate number of requests would be submitted to small businesses which manufacture trade secret chemicals. OSHA considers that allowing access to trade secret chemical identities to these nurses will be at least as advantageous to small business as to others, based on the expectation of a funneling effect (discussed above) that will occur as employees rely to some extent on nurses to protect employees' health in connection with the use of trade secret chemical identities. OSHA has concluded that this proposal does not present any significant economic burden to industry as a whole or to small entities.

#### Environmental Impact Analysis

The proposed rule has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOL NEPA Compliance regulations (29 CFR Part 11). As a result of this review, the Agency has determined that the proposed rule will not significantly affect the environment.

#### Public Participation

Interested persons are invited to submit written data, views, and arguments on the proposed inclusion of occupational health nurses among other health professionals entitled to trade secret disclosure. These comments must be received on or before January 31, 1985, and be submitted in quadruplicate to the Docket Officer, Docket H-022E, Occupational Safety and Health Administration, Room N3670, 200 Constitution Avenue, NW., Washington, DC 20210; (202) 523-7894. Written submissions must clearly identify the provisions of the proposal which are addressed, and the position taken on each issue.

All written submissions, as well as other information gathered by the Agency, will be considered in any action taken. The record of this rulemaking, including written comments and materials submitted in response to this notice, will be available for inspection and copying in the Docket Office, Room

N3670, at the above address, between the hours of 8:15 a.m. and 4:45 p.m.

Under section 6(b)(3) of the Occupational Safety and Health Act, interested persons may file formal objections to the proposal and request an informal hearing in accordance with the following conditions:

1. The requests must be received on or before January 31, 1985;
2. The request must state the grounds for the objection; and,
3. The request must include a detailed summary of the evidence proposed to be presented at the requested hearing.

#### Authority, Signature, and Proposed Rule

This document was prepared under the direction of Patrick R. Tyson, Acting Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Pursuant to sections 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), and Secretary of Labor's Order No. 9-83 (48 FR 35736), it is proposed that occupational health nurses be added to the list of health professionals in section 1910.1200(i)(3) as set forth below.

#### List of Subjects in 28 CFR Part 1910

Occupational safety and health,  
Hazard communication.

Signed at Washington, DC this 26 day of November, 1985.

Patrick R. Tyson,

Acting Assistant Secretary for Occupational Safety and Health.

#### PART 1910—[Amended]

1. The authority citation for Subpart Z of Part 1910 would be amended by adding the following citation:

Authority: Secs. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736) as applicable; and 29 CFR Part 1911.

Section 1910.1200, also issued under 5 U.S.C. 553.

2. Section 1910.1200 of Title 29 of the Code of Federal Regulations is proposed to be amended by revising the introductory language of paragraph (i)(3) to read as follows:

#### § 1910.1200 Hazard communication.

- (i) \* \* \*
- (3) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under

paragraph (j)(1) of this section, to a health professional (i.e. physician, industrial hygienist, toxicologist, epidemiologist or occupational health nurse) providing medical or other occupational health services to exposed employees(s), and to employees or designated representatives, if:

[FR Doc. 85-28599 Filed 11-26-85; 4:14 pm]  
BILLING CODE 4510-26-M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 357

#### Book-Entry Treasury Bonds, Notes and Bills

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of the Public Debt plans to issue Treasury bonds and Treasury notes only in book-entry form, beginning on or after July 1, 1986. This action will complete the Department's plan, initiated in 1976 with Treasury bills, to offer marketable Treasury securities only in the form of book entries.

The proposed rule will, upon a final adoption, govern a revised book-entry system covering all marketable Treasury securities issued on or after certain dates specified in these regulations, or in the Department's announcement of security offerings.

The part of the rule set out here for comment applies only to securities to be held in the Treasury Direct Access Book-entry Securities System (T-DAB). The commercial counterpart thereof, referred to herein as the Treasury/Federal Reserve Book-entry Securities System (T-FED), will continue, with some modifications, the book-entry Treasury securities system currently being maintained through Federal Reserve Banks. The rulemaking for T-FED will be published separately for comment in the near future.

**DATE:** Comments must be received on or before January 16, 1986.

**ADDRESS:** Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, E Street Building, Washington, DC 20239-0001.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Reese, Attorney-Adviser (202)-376-4320, or John E. Logue, Attorney-in-Charge (202)-447-9859.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to

participate in this rulemaking by submitting written comments and suggestions. Those received before the expiration of the comment period will be considered in the preparation of the final rule. No public hearing is contemplated, but if written requests for a hearing are received, and if it is determined that the rulemaking process will be clearly enhanced by oral presentation, a hearing will be scheduled.

### Discussion of Proposed Rule

#### General

The proposed rule would establish and govern the Treasury Direct Access Book-entry Securities System (T-DAB). The System will provide a new and expanded procedure for holding marketable Treasury bonds, notes, and bills. The offering of Treasury bonds and notes exclusively in book-entry form will begin in mid-1986, and these securities will, thereafter, no longer be offered in definitive, i.e., physical, form. Treasury bills, which are already only available in book-entry form, will be added to the T-DAB system, on a phased-in basis, during 1986-7.

T-DAB permits investors to have their book-entry securities maintained on a direct access basis by the Treasury. It is anticipated that most marketable Treasury securities will continue to be held in the Treasury/Federal Reserve Book-entry Securities System (T-FED). Securities held in T-DAB must be transferred to the commercial T-FED system in order to be sold in the market or pledged.

The explanatory material provided below describes the principal regulatory features of T-DAB. Since the rule represents a significant departure from the present book-entry system for Treasury bills, administered by the Bureau of the Public Debt, investors holding securities in that system are urged to gain familiarity with the substantive provisions of this rule.

The rule, as mentioned, contains only the proposed regulations that apply to T-DAB, as set out in Subpart C. The definitions set out in Subpart A are those that have application to T-DAB. Omitted from rulemaking at this time are Subpart B, which governs the commercial T-FED system, the definition that apply thereto, and other provisions of Subpart A.

#### T-DAB Securities Account

T-DAB utilizes computer technology to facilitate the process of purchasing, holding and servicing marketable Treasury securities. For the investor, its principal feature is the T-DAB account.

This feature will provide the basis for T-DAB to hold all Treasury bonds, notes, and bills that the investor wishes to own in the same form of registration. Also, once an account has been established, it will be possible to add securities to it without creating new accounts. At the same time, investors will be able to establish separate accounts to assure that other interests can be represented.

Each account will have the following special features:

- It will create ownership rights through the form of registration in which the securities are held.

- It will require the designation of a financial institution to receive direct deposit, i.e., electronic funds transfer, for payments on account of the securities held in T-DAB.

The account will have to be established at or before the purchase of the first security to be held in T-DAB. The account information can be verified by the account-holder through examination of a Statement of Account which will be provided after the account is created. Changes in the account can be made upon submission of an appropriate transaction request. A Statement of Account will be issued each time a change in the account has occurred, such as the addition of new securities, change of address, etc.

#### Forms of Registration

The proposed rule provides the investor with a variety of registration options. They are essentially similar to those provided for registered, definitive marketable Treasury securities. Investors should be particularly aware that, where the security is held in the names of two individuals, the registration chosen may establish rights of survivorship.

The reason for establishing the rights of ownership for securities held in T-DAB is that it will give investors the assurance that the forms of registration they select will establish conclusively the rights to their book-entry securities. It will also serve to eliminate some of the uncertainties, as well as possible conflicts, between the varying laws of the several States.

A Federal rule of ownership is being adopted by the Treasury for T-DAB securities. This regulatory approach is consistent with the one previously taken in the case of United States Savings Bonds. It will have the effect of overriding inconsistent State laws. See, *Free v. Bland*, 369 U.S. 663 (1962).

In the case of individuals (who are likely to be by far the majority of holders of securities in T-DAB), the options offered will permit virtually all



the preferred forms of ownership. At the investor's option, it will be possible to provide for the disposition of the securities upon death through rights of survivorship.

• *Coownership registration.* One option is the coownership form of registration, i.e., "A or B." Unlike the current Treasury bill book-entry system being administered by the Bureau of the Public Debt, a security held in T-DAB registered in this form will be transferable upon the written request of either coowner. Other changes in the account may also be made upon the request of either party. While this form of registration will facilitate the receipt of payments and provide ease in conducting transactions, care should obviously be exercised in designating a coowner.

• *Joint ownership.* For those who would prefer to have the transferability of a security held in two names contingent upon the request of both, the joint form of registration will be appropriate. This form of registration, i.e., "A and B, with [without] the right of survivorship," will require the agreement of both parties to conduct any authorized transaction.

• *Beneficiary form.* The beneficiary form, i.e., "A payable on death to (POD) B" will permit the owner to have sole control of the account during his/her lifetime, but in the event of death, the account will pass by right of survivorship to the beneficiary.

#### *Direct Deposit for T-DAB Payments*

T-DAB investors will be required, in virtually all cases, to designate a financial institution to receive payments on account of their securities. Each investor must identify the institution to which payments are to go, by furnishing its American Bankers Association (ABA) routing/transit number, and designating the account to which the payments are to be credited. This will enable payments to be directly deposited by electronic funds transfer (sometimes referred to as ACH) to the named institution for the account of the T-DAB owner.

The direct deposit payment mechanism will make possible the use of the economies of, and achieve the safety associated with, payments in that form. Checks will be issued only in those rare cases where direct deposit is not feasible.

The direct deposit system to be used for T-DAB payments will differ from the procedures used for Federal recurring benefit payments. The principal difference is that no written agreement from the institution will have to be submitted to T-DAB. Instead, T-DAB

will use the designation provided by the investor to send payments to the designated institution.

T-DAB, in administering direct deposit, will rely on a "pre-notification" procedure. Once an account has been established, and shortly before the first payment thereon is to occur, T-DAB will send to the financial institution a pre-notification wire to alert it to the fact that a future direct deposit will be made. All the information relating to the direct deposit, except the amount of the payment, will be provided, so that the information can be verified by the institution.

All financial institutions that have agreed under Title 31, Code of Federal Regulations, Part 210, to receive Federal government recurring payments, such as for social security benefits, on a direct deposit basis will be deemed, upon designation by the investor, to be an authorized recipient for T-DAB payments.

#### *Investor Responsibility*

A critical responsibility will be placed on the investor to protect his/her investment plan. To protect the rights of survivorship prescribed by the registration of the security, the investor should make certain that there is a correlation between the ownership of the T-DAB account and the deposit account to which payments are directed.

#### *Voluntary Guardianship*

The proposed regulations provide for the recognition of a voluntary guardian where the owner of T-DAB securities is unable, because of physical or mental disability, to conduct his/her financial affairs, and no legal guardian has been appointed for such individual. The Department of the Treasury will recognize a member of the family, or some other appropriate individual, to act as voluntary guardian, for the owner, provided the latter holds not more than a total of \$20,000 (face amount) of T-DAB securities. To protect the investor, an agreement to designate a voluntary guardian will be required of all persons and parties determined to have an interest in the investor's estate.

#### *Judicial Proceedings*

Under the principle of sovereign immunity, neither the Department nor a Federal Reserve Bank, acting as fiscal agent of the United States, will recognize a court order that attempts to restrain or enjoin the Department or a Federal Reserve Bank from making payment on a security or from disposing of a security in accordance with instructions of the owner as shown on the Department's records.

The Department will recognize a final court order affecting ownership rights in T-DAB securities provided that the order is consistent with the provisions of Subpart C and the terms and conditions of the security, and the appropriate evidence, as described in § 357.23(c), is supplied to the Department. For example, the Department may recognize final orders arising from divorce or dissolution of marriage, creditor or probate proceedings, or cases involving application of a State slayer's act. The Department will also recognize a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payments with respect thereto, provided conditions similar to those above are met.

#### *Procedural Requirements*

This proposed rule is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

Although this rule is being issued in proposed form to secure the benefit of public comment, the notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on those requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Attention: Desk Officer for the Bureau of the Public Debt. The Bureau also requests that copies of such comments be sent to its address, as specified above.

#### *List of Subjects in 31 CFR Part 357*

Electronic funds transfer, Federal Reserve System, Government securities.

Dated: November 21, 1985.

Gerald Murphy,

*Acting Fiscal Assistant Secretary.*

Part 357 currently contains regulations covering claims pursuant to the Government Losses in Shipment Act. Those regulations will be transferred to another part in 31 CFR in the future. Therefore, a new Part 357 would be added to Subchapter B of Title 31, Code of Federal Regulations, Chapter II, and issued as Department of the Treasury

Circular, Public Debt Series No. 2-86, to read as follows:

**PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS**

**Subpart A—General Information**

Sec.  
357.0-357.3 [Reserved]  
357.4 Definitions.

**Subpart B—Treasury/Federal Reserve Book-entry Securities System (T-FED) [Reserved]**

**Subpart C—Treasury Direct Access Book-entry Securities System (T-DAB)**

357.20 An account in T-DAB.  
357.21 Registration.  
357.22 Transfers.  
357.23 Judicial Proceedings—sovereign immunity.  
357.24 Availability and disclosure of T-DAB records.  
357.25 Security interests.  
357.26 Payments.  
357.27 Reinvestment.  
357.28 Transaction requests.  
357.29 Time required for processing transaction request.  
357.30 Cases of delay or suspension of payment.  
357.31 Certifying individuals.  
357.32 Submission of transaction requests; further information.

**Subpart D—Additional Provisions**

357.40 Additional requirements.  
357.41 Waiver of regulations.  
357.42 Preservation of existing rights.  
357.43 Liability of Department and Federal Reserve Banks.  
357.44 Liability for transfers to and from T-DAB.  
357.45 Supplements, amendments, or revisions.

Authority: 31 U.S.C. Chapter 31; 12 U.S.C. 391.

**Subpart A—General Information**

§§ 357.0 through 357.3 [Reserved]

§ 357.4 Definitions.

In this part, unless the context indicates otherwise:

"Bill" means an obligation of the United States, with a term of not more than one year, issued at a discount, under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Bond" means an obligation of the United States, with a term of more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Department" means the United States Department of the Treasury.

"Depository institution" means an entity described in Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)). Under section 19(b) of the Federal

Reserve Act, the term "depository institution" includes:

(a) Any insured bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(b) Any mutual savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(c) Any savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(d) Any insured credit union as defined in 12 U.S.C. 1752 or any credit union which is eligible to make application to become an insured institution under 12 U.S.C. 1781;

(e) Any member as defined in 12 U.S.C. 1422;

(f) Any insured institution as defined in 12 U.S.C. 1724 or any credit union which is eligible to make application to become an insured credit union under 12 U.S.C. 1726; and

(g) For the purpose of 12 U.S.C. 248(o), 342 to 347, 347c, and 372, any association or entity which is wholly owned by or which consists only of institutions referred to in paragraphs (a) through (d) of this definition.

"Federal Reserve Bank" or "Reserve Bank" means a Federal Reserve Bank or Branch.

"Financial institution" means, for purposes of direct deposit, an institution which has agreed to receive credit payments under 31 CFR Part 210, as amended from time to time, and has not withdrawn its participation in a direct deposit program under Part 210.

"Incompetent" means an individual who is legally, medically or mentally incapable of handling his or her business affairs, except that a minor is not an incompetent solely because of age.

"Maturity value" is the amount that the Department is obligated to pay when a security matures.

"Note" means an obligation of the United States, with a term of at least one year, but of not more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Original issue" means the offering by the Department of the Treasury of a marketable Treasury security to the public and its issuance in book-entry accounts maintained either directly by the Treasury or held through a Federal Reserve Bank.

"Owner," as used in Subpart C, means the individual(s) or entity in whose name a security is registered. If a security is registered in more than one

name, the term "owner" includes all those whose names appear on the registration and are authorized by this Part to make a transaction request on a security held in T-DAB.

"Redemption" means payment of a security at maturity, or pursuant to a call for redemption in accordance with the terms of a security.

"Representative" includes an executor, administrator, legal guardian, committee, conservator, and any similar person or entity appointed by a court to represent the estate of a decedent, minor, or incompetent, as well as a trustee, whether appointed by a court otherwise.

"Security" means a bond, note, or bill, as defined in this section.

"Security interest" and "pledge" mean a limited interest in a security, acquired by a secured party to secure payment or performance of an obligation.

"Taxpayer identifying number" or "TIN" means a social security account number or an employer identification number, as appropriate.

"T-DAB" is the Treasury Director Access Book-entry Securities System.

"T-FED" is the Treasury/Federal Reserve Book-entry Securities System.

"Transaction request" means a request to effect a change in an account master record or securities portfolio maintained in T-DAB.

"Transaction request form" means a form or series of forms prescribed for use by the Department to request a transaction in T-DAB. (This term includes a document that the Department has determined contains all of the elements required by the transaction request form.)

**Subpart B—Treasury/Federal Reserve Book-Entry Securities System (T-FED) [Reserved]**

**Subpart C—Treasury Direct Access Book-Entry Securities System (T-DAB)**

§ 357.20 An account in T-DAB.

(a) *Account.* An account consists of:

- (1) An account master record, and
- (2) A securities portfolio.

(b) *Security.* A security in T-DAB is evidenced by the account master record and a description of the security as set out in the securities portfolio associated with an account master record.

(c) *Account master record.* An owner must establish an account master record before the owner may deposit a security in T-DAB. If the security is being purchased on original issue, the request that an account master record be established may be made on the form used for purchase of the security. If the

security is being acquired other than on original issue, the request that an account master record be established should be made on the appropriate form that is provided by the Department. The account master record includes, but is not limited to, the following data:

- (1) The exact form of registration in which the securities are held;
- (2) The T-DAB account number;
- (3) The correspondence address for the account;
- (4) The TIN of the owner, or in the case of ownership by two individuals, of the first-named owner;

(5) Payment instructions. (See § 357.26.)

(d) *Securities portfolio.* The securities portfolio contains a description of each security.

(e) *Statement of account.* The Department shall send a statement of account ("statement") upon:

- (1) Establishment of, or a change in, an account master record or the securities portfolio;
- (2) Change in payment instructions; or
- (3) An owner's request.

The statement contain information regarding the account as of the date of such statement. The price associated with each security in the securities portfolio will also appear on the statement.<sup>1</sup> The statement will normally

be sent to the correspondence address designated in the account master record. When the statement is issued as a result of a change in ownership of a security, statements will be sent, where appropriate, to both the former and current owners. Other information regarding the account may be obtained in accordance with § 357.24 (Approved by the Office of Management and Budget under control number —.)

#### § 357.21 Registration.

(a) *General.* (1) Registration of a security conclusively establishes ownership. See, however, paragraph (b)(3) of this section. The registration may not, except as provided in this Subpart, include any restriction on the authority of an owner to change the data in the account master record, transfer the security, or effect any other change in the securities portfolio.

(2) The registration of all securities held by an owner should be uniform with respect to the owner's name. An owner must be identified by the name by which the owner is ordinarily known, preferably including at least one full given name. A suffix, such as "Sr." or "Jr.", must be included when ordinarily used, or when necessary to distinguish members of the same family.

(3) If an additional security is deposited in an existing account, the security will be registered in the same name and form appearing in the account master record. One who holds a security as "John Allen Doe" should use that name when depositing another security rather than "J. Allen Doe", or "John A. Doe". Minor variations in names used in acquiring a security to be deposited in an established account may be resolved by the Department.

(b) *Natural persons.* A security may be registered in the names of one or two individuals, but only in one of the following forms:

(1) *Single ownership.* In the name of one individual.

*Example:* Robert W. Woods.

An individual who is sole proprietor of a business conducted under a trade name may include a reference to the trade name.

*Example:* John A. Doe, doing business as Doe's Home Appliance Store.

(2) *Ownership by two individuals.*

(i) *"And" form—Joint Ownership—(A) Without right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "without right of survivorship". A

interest payment periods and (b) price corrections for bills reported after preparation of the reports to the IRS.

security so registered shall conclusively confer on each owner an undivided interest in the security.

*Example:* Elizabeth Black and Jane Brown, without right of survivorship.

Any request for registration which purports, by its terms, to preclude the right of survivorship, or which requests registration in the names of two persons without indicating whether survivorship rights attach (other than a registration under paragraph (b)(2)(ii) of this section), will be presumed to be a request for registration without right of survivorship. If a security is registered in this form, a transaction request, other than a request by one owner to transfer the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(B) *With right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "with right of survivorship". A security so registered shall conclusively confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

*Example:* Mark A. Doe and Mary B. Doe, with right of survivorship.

If a security is registered in this form, a transaction request, other than a request by one owner to transfer the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(ii) *"Or" form—Coownership.* In the names of two individuals, joined by the word "or". A security so registered shall conclusively confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

*Example:* Robert Woods or Laura Woods.

If a security is registered in this form, either coowner may make a transaction request, but if the Department receives conflicting requests at or about the same time, it may refuse to process them.

(iii) *Beneficiary.* In the name of one individual followed by the words "Payable on death to" (or "P.O.D.") another individual.

*Example:* Jack S. Jones, payable Perry, Jr., a minor.

If a minor or an incompetent is named as a beneficiary, the status of the beneficiary must be identified in the registration. A minor or an incompetent may not be designated as an owner. See paragraphs (b)(3) and (b)(4) of this section.

*Example:* John Perry, P.O.D. John Perry, Jr., a minor.

<sup>1</sup> IRS regulations require reporting of income information on a security.

(1) If the security is a bill, the price information will be used to comply with this requirement. The earnings reported to IRS for the year of a bill's maturity will be the difference between the par value of the bill and its price.

(a) If a bill is deposited in T-DAB at original issue, the price shown will be the issue price.

(b) If a bill is transferred to T-DAB from T-FED, the price shown will be that included in the transfer wire or supplied subsequently by the bill owner. If a price is not furnished, the price shown will be the weighted average price of the bill of the longest maturity having the identical CUSIP number.

(c) If a bill is transferred from one T-DAB account to another, the price shown in the receiving (transferee's) account will be that shown on the transfer instructions or supplied subsequently by the transferee. If a price is not furnished, the price shown will be the weighted average price at original issue of the bill of the longest maturity having the identical CUSIP number, unless the term of the bill can be determined from the account record in which case the price shown will be the weighted average price at original issue of the bill with that term.

(2) If the security is a note or bond, the earnings reported to IRS for a year will be the periodic interest payments made during that year. If a note or bond is transferred to a T-DAB account between interest payment dates, the earnings reported to IRS for the transferee will show the interest for the entire interest payment period. The price for notes and bonds will be shown on the statement of account for the account owner's information. The price shown will be determined following the procedures described above for bills.

(3) The security owner should submit directly to the IRS (a) adjustments to annual earnings amounts arising from transfers of notes and bonds between

Registration in this form shall create ownership rights in the beneficiary only if the beneficiary survives the owner. During an owner's lifetime, a transaction request may be executed by the owner without the consent of the beneficiary. If the beneficiary dies before the owner, the security will be deemed to be registered in the owner's name alone.

(3) *Minors*—(i) *General*. A security may not be registered in the name of a minor in his or her own right as an owner. If a security is so registered and the Department thereafter receives evidence or information of that fact, the Department may suspend processing of any transaction requests with respect to the security until either a legal guardian has been appointed or a natural guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized.

(ii) *Natural guardians of minors*. A security may be registered in the name of a natural guardian of a minor for whose estate no legal representative has been appointed. The parent with whom the minor resides will be recognized as the natural guardian. If the minor resides with both parents, either or both may be recognized as natural guardian(s). If the minor does not reside with either parent, the person who furnishes the minor's chief support will be recognized as the natural guardian.

*Examples*: Michael Jones, as natural guardian of Alice Jones, a minor.

Michael Jones and Evelyn Jones, as natural guardians of Alice Jones, a minor.

The security may also be registered in one of the forms authorized under paragraph (b)(2) of this section.

*Examples*: James Green, as natural guardian of William Green, a minor, and Anne Green, without right of survivorship.

James Green, as natural guardian of William Green, a minor, POD Lynne Green.

(iii) *Custodian under statute authorizing gifts to minors*. A security may be registered as provided under an applicable gifts to minors statute.

*Example*: Virginia McDonald, as custodian for Lynne Gorman, under the New York Uniform Gifts to Minors Act.

Any request to alter the rights of ownership of the security must be made as provided in the applicable statute.

(i) *Incompetents*—(1) *General*. A security may not be registered in the name of an individual in his or her own right as an owner if that individual is incompetent. If a security is so registered, or if the owner subsequently becomes incompetent after the security is purchased, and the Department receives information or evidence of the incompetency, the Department may

suspend any transaction with respect to the security until a legal guardian, conservator, or other representative of the incompetent's estate has been appointed, or a voluntary guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized.

(ii) *Voluntary guardian of incompetent*. If a legal guardian has not been appointed, and the face amount of the securities held by the incompetent in one or more accounts in T-DAB as owner, coowner, or joint owner does not, in the aggregate, exceed \$20,000 (face amount), upon submission to, and approval by, the Department of an appropriate form, a relative or other person responsible for an incompetent's care and support will be recognized as voluntary guardian for the purpose of making a transaction request under Sec. 357.28(b)(4). All persons known by the Department to have an interest in the incompetent's estate, as required by the application form, must agree to the designation of the voluntary guardian. The security may be re-registered in the name of the voluntary guardian.

*Example*: Richard Melrose, as voluntary guardian for James W. Brundige.

(c) *Court-appointed representatives—executors, administrators, guardians, et al.* A security may be registered in the name of the executor, administrator, legal guardian, conservator, *et al.*, of an estate. In addition, the name of the estate must be adequately identified. If there is more than one representative appointed by a court, the names of some representatives may be omitted if followed by language that indicates the existence of other representatives. In such cases, those named in the registration shall be conclusively presumed by the Department to have authority to make a transaction request on behalf of all the representatives.

*Examples*: ABC National Bank of Chicago, Illinois and Harold Smith, co-executors of the will (or administrators of the estate) of Charles Johnson, deceased.

William Brown, guardian of the estate of Henry Jones, a minor.

Robert Smith and Richard Smith, *et al.*, executors of the will of Lorraine Smith.

(d) *Trustees*. A security may be registered in the name of the trustee(s) of a trust, followed by an adequate identification of the authority or document by which the trust was created.

*Examples*: Sarah Jones and XYZ Trust Co., trustees under the will of Matthew Smith, deceased.

Cynthia Doe and Margaret Jones, trustees under agreement with Martha Roe dated April 13, 1979.

Cynthia Doe, trustee under declaration of trust dated April 13, 1979.

If there is more than one trustee, the names of some of the trustees may be omitted if followed by language that indicates the existence of other trustees. In such a case, those named in the registration shall be conclusively presumed by the Department to have authority to make a transaction request with respect to a security on behalf of all of the trustees. If there are several trustees designated as a board or authorized to act as a unit, their names should be omitted and the words "Board of Trustees" substituted.

*Examples*: Richard Smith, James Jones, *et al.*, trustees under the will of Henry K. James, deceased.

ABC Corporation and Myrna Banker, *et al.*, trustees of Profit-Sharing Plan of Ace Manufacturing Co., under B/D resolution dated May 18, 1975.

Board of Trustees of Super Co. Retirement Fund, under collective bargaining agreement dated March 18, 1969.

(e) *Private organizations (corporations, unincorporated associations and partnerships)*. A security may be registered in the name of a private corporation, unincorporated association, or partnership. The full legal name of the organization, as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other documents from which its powers are derived, must be included in the registration. The name may be followed by a reference to a particular account or fund, other than a trust fund, such as an escrow account.

(1) *A corporation*. Unless the corporation's name includes the word "corporation", the word "incorporated", or an abbreviation of either word, the registration must include descriptive words indicating corporate status. This rule does not apply to a depository institution or a corporation organized under Federal law.

*Examples*: Brown Manufacturing Co., a corporation (Education Fund).

The Apex Manufacturing Corporation. ABC National Bank.

Goodworks Unlimited, a not-for-profit corporation.

(2) *An unincorporated association*. Unless the name of a lodge, club, labor union, veteran or religious organization, or similar organization which is not incorporated (whether or not it is chartered by or affiliated with a parent organization which is incorporated) includes the words "an unincorporated association", the registration must include descriptive words indicating the organization's unincorporated status. A security may not be registered in the

name of an unincorporated association if the legal title to its property or the legal title to the funds with which the security is to be purchased is held by trustees. In such a case, the security should be registered in the name of the trustees in accordance with paragraph (c)(2) of this section. The term "unincorporated association" should not be used to describe a trust fund, a partnership or a business conducted under a trade name.

*Examples:* Local Union No. 13, Brotherhood of Operating Engineers, an unincorporated association.

The Simpson Society, an unincorporated association.

(3) *Partnership.* Unless the name of a partnership includes the word "partnership," the registration must include descriptive words indicating partnership status.

*Example:* Red & Blue, a partnership.

(f) *Governmental entities and officers.* A security may be registered in the name of a State, county, city, town, village, school district, or other governmental entity, body, or public corporation established by law. The form of registration should reflect the capacity in which the governmental entity is authorized to hold property (e.g., it may be authorized to hold property in its own name or as trustee). If a governmental officer is authorized to act as a trustee or custodian, a security may be registered in the title, or name and title, of the governmental officer.

*Examples:* Laura Woods, Treasures, City of Twin Falls, Mo.  
State of Michigan.  
Village of Gaithersburg, Md.  
Pennsylvania State Highway Administration (Highway Road Repair Fund).  
Insurance Commissioner of Florida, trustee for benefit of policy-holders of Sunshine Insurance Co. under F.S.A. Sec. 629.104.  
Commonwealth of Virginia, in trust for Virginia Surplus Property Agency.  
Gleason County Cemetery Commission, trustee under Md. Code Ann. Section 310.29.

(Approved by the Office of Management and Budget under control number ———.)

#### § 357.22 Transfers.

(a) *General.* A security may be transferred only as authorized by this Part. A security may be transferred from an account in T-DAB to an account in T-FED. A security may be transferred between accounts in T-DAB, or from an account in T-FED to an account in T-DAB, provided that prior to, or coincidental with, the transfer, an account master record has been established in the name of the transferee in accordance with the requirements of paragraph (a) of this section.

(1) *Identification of securities to be transferred.* The owner must identify the securities to be transferred within T-DAB, or from T-DAB to T-FED, in the manner required by the transaction request form. If such identification is not provided, the request will not be processed and will be returned.

(2) *Denominational amounts.* A security may be transferred from an account only in a denominational amount authorized by the offering under which the security was issued. Any security remaining in the securities portfolio after the transfer must also be in an authorized denominational amount.

(3) *When transfer effective.* A transfer of a security within T-DAB, or from T-FED to T-DAB, is effective when an appropriate entry is made in the name of the transferee on the T-DAB records. A transfer from T-DAB to T-FED is effective as provided in Subpart B. If a transfer of a security from T-DAB to T-FED cannot be completed, the Department will redeposit the security in the transferor's account and treat the transferor as the owner.

(b) *Transfer upon death of an owner.*  
(1) If a security is registered in beneficiary form or a form which provides for a right of survivorship, upon the death of an owner, the beneficiary or survivor shall be the sole and absolute owner, notwithstanding any State or other law to the contrary. The Department will honor a transaction request by a beneficiary or a survivor (in the case of a security registered in the form described in § 357.21(b)(2)(i)(B)) only upon proof of death of an owner.

(2) If a security is registered in a form that does not provide for a right of survivorship, succession shall be determined in accordance with the applicable law of the deceased owner's domicile at the time of death.

(c) *Representative succession.* If a security is registered in the name of a representative who has died, resigned, or been removed, succession shall be determined in accordance with applicable law and the terms of the document under which the representative was acting.

(d) *Organizational succession—(1) Corporation and unincorporated association.* If a security is registered in the name of a corporation or an unincorporated association that has been dissolved, merged or consolidated into another organization, succession shall be determined in accordance with applicable law and the terms of the documents by which the dissolution, merger, or consolidation was effected.

(2) *Partnership.* If a partnership is dissolved or terminated, succession shall be determined in accordance with applicable law and the terms of the partnership agreement.

(e) *Succession of governmental officer.* If a security is registered in the name and title of a governmental officer who has died, resigned, or has been removed, succession shall be determined in accordance with applicable law.

(Approved by the Office of Management and Budget under control number ———.)

#### § 357.23 Judicial proceedings—sovereign immunity.

(a) *Department and Federal Reserve Banks not proper parties.* The Department and the Federal Reserve Banks are not subject to a judicial proceeding involving competing claims to a security held in T-DAB nor are they subject to any injunction or restraining order issued with respect to a security. The Department will not recognize a notice of a pending or contemplated judicial or administrative proceeding affecting a security in T-DAB.

(b) *Orders—(1) Ownership rights.* The Department will recognize a final order entered by a court that affects ownership rights in a security in T-DAB if:

(i) The order is consistent with the provisions of this Subpart and the terms and conditions of the security; and  
(ii) The Department has received evidence of the order, as provided in paragraph (c) of this section.

(2) *Transaction request.* The Department will honor a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payment with respect thereto if:

(i) The ordered disposition of the security or payments with respect thereto is consistent with the provisions of this Subpart and the terms and conditions of the security; and  
(ii) The Department has received evidence of the appointment and order, as provided below.

(c) *Evidence required.* Before the Department will recognize a final order entered by a court, the Department must have received a certified copy of the judgment, decree, or order, and any additional documents deemed necessary by the Department. A certificate from the clerk of the court, bearing the seal of the court, must also be submitted stating that the judgment, decree, or order is still in full force, that it has not been stayed or appealed, and that the time for filing an appeal has passed. Before the

Department will honor a transaction request submitted by a person appointed by a court, the Department must receive a certified copy of the order making the appointment and describing specifically the person's authority, and any additional documents deemed necessary by the Department.

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#### § 357.24 Availability and disclosure of T-DAB records.

(a) *General.* All records with respect to a T-DAB account are held confidential. Consistent with the Privacy Act (5 U.S.C. 552a), information relating to those accounts will be released only to the owner except:

- (1) As provided in these regulations;
- (2) As provided in Treasury regulations contained in 31 CFR Part 323; or
- (3) As otherwise provided by law.

(b) *Inquiries by owners.* Information requested will be disclosed to an owner provided that:

- (1) Sufficient information is provided to identify the owner; and
- (2) Sufficient information is provided to identify the T-DAB account.

(c) *Conditions for release.* A request for information will be honored only if, in the sole judgment of the Department or the Federal Reserve Bank to which inquiry is made, the identity and right of the requester to the information have been established.

#### § 357.25 Security interests.

The Department will not recognize any notice or claim of a security interest of any kind, including a pledge, in a security in T-DAB.

#### § 357.26 Payments.

(a) *General.* A payment by the Department with respect to a security shall be by direct deposit (electronic funds transfer), except when the Department determines that extraordinary circumstances exist that require payment by check.

(b) *Direct deposit—(1) Information on account at financial institution.* (i) To establish an account in T-DAB, the owner must furnish the name and ABA routing/transit number of the financial institution ("institution") to which payments with respect to all securities held in that account are to be made, as well as the name, number, and type of the account at the institution to which such payments are to be credited. Investors should consult with the financial institution they are planning to designate to receive their T-DAB payments to determine if that financial institution has agreed to receive direct

deposit payments under 31 CFR Part 210. The owner of the security, or in the case of ownership by two individuals, the first-named owner, must be an owner of, and so designated, on the account at the institution. The information should be furnished on the tender form, if the security is being acquired on original issue, or in other cases on an appropriate form provided by the Department. To assure the accuracy of the account name, account number, and account type, as well as the name and ABA routing/transit number of the institution to which payments are to be made, the owner should consult with the institution in advance of the submission of the tender or transaction form. All payments relating to a single account master record must be made to the same designated financial institution.

(ii) In any case in which a security is held jointly or with right of survivorship, the account at the institution should be established in a form that assures that the rights of each joint owner or survivor will be preserved. Neither the United States nor any Federal Reserve Bank shall be liable for any loss sustained because the interests of the holder(s) of an account to which payments are made with respect to a security are not the same as the interests of the owner(s) of the security.

(iii) The designation of an institution by an owner to receive payments with respect to a security constitutes the appointment of that institution as the owner's agent for receipt of such payments. The crediting of a payment to the institution for deposit to the owner's account in accordance with the owner's instructions, discharges the United States of any further responsibility for such payment. Where the institution has arranged with a Federal Reserve Bank to have payments credited through a designee institution, the crediting of a payment to that designee institution discharges the United States of any further responsibility for such payment.

(2) *Agreement of financial institution.* Any financial institution which has agreed to accept payments under 31 CFR Part 210, "Federal Recurring Payments Through Financial Institutions By Means Other Than By Check", shall be deemed to agree to accept payments under this Subpart. In any case, a financial institution's acceptance and handling of a payment made with respect to a security covered by this Subpart shall constitute its agreement to the provisions of this subpart. An institution may not be designated to receive payments, as provided in this Subpart, unless it has agreed to receive other direct deposit payments under 31 CFR Part 210.

(3) *Pre-notification—(i) General.* The institution designated for payment will receive, not less than fifteen (15) calendar days prior to the first payment to a designated account, a pre-notification message advising that a payment should be expected to the account. A pre-notification message will also be sent whenever there is a change in the payment instructions, except for a change only in the type of deposit account. The pre-notification message shall contain the information prescribed in paragraph (b)(1)(i) of this section.

(ii) *Rejection of pre-notification.* The institution must reject the pre-notification message within four (4) calendar days after the date of receipt if either the information contained in the message does not agree with the records of the institution, or if for any other reason the institution will not be able to credit the payment in accordance with this Subpart. Upon receipt of a rejection of a pre-notification message, the Department will contact the owner for further instructions or make payment by check.

(iii) *Effect of failure to reject.* If an institution does not reject a pre-notification message within the specified time period, the institution shall be deemed to have accepted the pre-notification and to have warranted to the Department that the information contained therein is accurate.

(4) *Continuation of payment instructions.* Payment instructions in an account master record will apply to any and all securities held in that account until the Department:

- (i) Receives a request from the owner to change such instructions; or
- (ii) Receives advice from the institution that the account to which payment is to be made has been closed; or
- (iii) Receives notice of a change in status of a designated account or of the owner, as provided in paragraph (e) of this section.

(5) *Responsibility of financial institution.* An institution which receives a payment on behalf of its customer must:

- (i) Upon receipt, credit the designated account and make the payment available for withdrawal or other use not later than the date specified for payment, or, if that date is not a business day for the institution or its Federal Reserve Bank, the next-succeeding business day for both. If the institution is unable to credit the designated account, it shall return the payment by no later than the next business day after the date of receipt.

with a statement explaining the reason for the return.

(ii) Promptly notify the Department when the institution has made a change in the status or ownership of a designated account, such as the deletion of the first-named owner of the security from the title of the account, or when the institution is on notice of the death or incompetency of the owner, coowner or joint owner of the designated account, or when the institution is on notice of the dissolution of a corporation in whose name the designated account is held. In all such cases, the institution, after notice, shall return all payments received for the designated account.

(6) *Duplicate or erroneous payments.* If the Department or a Federal Reserve Bank has made a duplicate or erroneous payment, the Department or Federal Reserve Bank will promptly initiate action to recover the duplicate or erroneous payment as follows:

(i) Send a written or electronic notice to the financial institution to which the payment was directed, which notice shall include the name of the payee, the account number, the ABA routing/transit number, and the date and amount of the erroneous or duplicate payment that was not returned. See paragraphs (b)(3)(ii) and (5)(ii) of this section. Upon receipt of this notice, the financial institution shall immediately return to the appropriate Federal Reserve Bank the total amount remaining in the account to which the payment was deposited up to the total amount of the erroneous or duplicate payment. If the institution is unable to return all or part of a duplicate or erroneous payment, because the account to which it was credited does not have sufficient funds to cover a debit of the amount of the duplicate or erroneous payment, the institution shall immediately notify the Department or the Federal Reserve Bank, and provide the names and addresses of all persons who withdrew funds from the account after the date of the duplicate or erroneous payment.

(ii) Where the total amount of the duplicate or erroneous payment has not been returned, the Department or Federal Reserve Bank shall collect any balance remaining from the person or persons who withdrew moneys from the account after the date of the duplicate or erroneous payment. To the extent permitted by law, the collection action may include deducting the amount owing from future payments made to such person or persons.

(iii) If a financial institution has not fully complied with the notice made pursuant to paragraph (b)(6)(i) of this section within 30 calendar days of that

notice, the Federal Reserve Bank is authorized to debit the amount of the duplicate or erroneous payment from any account maintained or utilized by the financial institution at the Federal Reserve Bank. An institution designated by a financial institution to receive payment on its behalf, in authorizing such financial institution to utilize its account on the books of the Federal Reserve Bank, shall be deemed to authorize such debit from that account. The institution to which payment has been directed and the owner who designated the account to which the payment is to be deposited shall be deemed to have agreed to any action to effect recovery of a duplicate or erroneous payment under this subsection.

(c) *Checks.* If a payment is not made by direct deposit, it shall be made by a check, drawn by a Federal Reserve Bank, as fiscal agent of the United States, on the Federal Reserve Bank in its banking capacity ("fiscal agency check"), or drawn by the Department on itself ("Treasury check"). A fiscal agency check is governed by the regulations in 31 CFR part 355. A Treasury check is governed by the regulations and statutes applicable to checks drawn on the United States or designated depositories of the United States (e.g., 31 CFR Parts 235, 240, and 245). A check issued with respect to a security shall be made payable to the owner(s) of the security and will be mailed to the correspondence address of the T-DAB account.

(d) *Federal Reserve Banks—(1) Handling of payments.* Each Federal Reserve Bank as fiscal agent of the United States shall receive payment in accordance with the information described in paragraph (b)(1)(i) of this section, and make the payment to the designated institution by crediting it to the account of the designated institution, or of its designee, in accordance with its operating circular governing such payments.

(2) *Liability.* Each Federal Reserve Bank shall be responsible only to the Department and shall not be liable to any other party for any loss resulting from its handling of payments.

(e) *Timeliness of action.* If, because of circumstances beyond its control, the Department or a Federal Reserve Bank is delayed beyond applicable time limits in taking any action with respect to a payment, the time shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to complete the action.

(f) *Suspension of payments.* Upon receipt of notice of a change in the status of a designated account or of the

owner of a security, such as the deletion of the first-named owner of the security from the title of the designated account, death or incompetency of a natural person, or dissolution of a corporation, the Department reserves the right to suspend payments and any transactions with respect to a security pending receipt of satisfactory evidence of entitlement.

(Approved by the Office of Management and Budget under control number ———.)

#### § 357.27 Reinvestment.

(a) *General.* Upon the request of an owner, the redemption proceeds of a security may be reinvested at maturity in a new security in the same form of registration, provided a new security is then being offered by the Department and provision for reinvestment is made in the offering. The new security must be in an authorized denominational amount and will be issued in accordance with the terms of the offering. If the new security is issued at a premium or with accrued interest, an additional payment will be required from the investor. If the new security is issued at a discount, the difference will be remitted to the owner.

(b) *Treasury bills.* A request by an owner for a single or successive reinvestment of a Treasury bill must be made in accordance with the terms prescribed on the tender form submitted at the time of purchase of the original bill, or by a subsequent transaction request received not less than twenty (20) calendar days prior to the maturity of the original bill. A request to revoke a direction to reinvest the proceeds of a bill must be received by the Department not less than twenty (20) calendar days prior to the maturity date of the bill. If either a request for reinvestment or revocation of a reinvestment request is received less than twenty (20) calendar days prior to maturity of the original bill, the Department may in its discretion act on such request if sufficient time remains for processing.

(c) *Issue date not coincidental with maturity date.* If the date on which a security matures or is called does not coincide with the issue date of the security being purchased through reinvestment, the Department may, at its option, hold the redemption proceeds until the issue date in the same form of registration as the maturing or called security, but no interest shall accrue or be paid on such funds.

(Approved by the Office of Management and Budget under control number ———.)

#### § 357.28 Transaction requests.

(a) *General.* Unless otherwise authorized by the Department, a

transaction request must be submitted on a transaction request form. In the case of certain transactions specified by the Department, the owner's signature on the form must be certified or guaranteed, as provided in § 357.31. If the transaction request form is received more than six (6) months after its execution, it will not be honored by the Department and will be returned to the sender for further instructions.

(b) *Individuals*—(1) *General*. A transaction request must be signed by the owner of the security. In addition to any required certification, a transaction request form executed by a person by a mark, (e.g., "(X)"), must be witnessed by a disinterested person. The following language should be added to the form and be signed by the witness:

"Witness to signature by mark

Signature of witness \_\_\_\_\_

Address of witness. \_\_\_\_\_

(2) *Change of name*. If an individual's name has been changed from that appearing in the registration, the individual should sign both names to the transaction request form and state the manner in which the change occurred.

*Example*: Deborah L. Gains, changed by order of court from Deborah G. O'Brien.

The individual must provide evidence, such as a certified copy of a court order, which confirms the change, unless it is indicated that the change of name resulted from marriage.

*Example*: Catherine M. Cole, changed by marriage from Catherine T. Murray.

(3) *Natural guardians*. A transaction request involving a security registered in the name of a natural guardian of a minor may be executed by the natural guardian. If a security is registered in the names of both parents as natural guardians of a minor, both must execute a transaction request. However, the Department will not honor a transaction request by the natural guardian(s):

(i) Which would transfer the security to a natural guardian in his or her own right; or

(ii) After the Department receives notice of the minor's attainment of majority, the disqualification of a natural guardian, the qualification of a legal guardian or similar representative, or the death of the minor.

(4) *Voluntary guardians*. A transaction request involving a security belonging to an incompetent may be executed by a voluntary guardian, but only after approval by the Department of the voluntary guardian's application for such designation. See § 357.21(b)(4).

(c) *Representatives*—(1) *General*. A representative of an owner's estate, other than a trustee, may execute a

transaction request form if the representative submits to the Department property authenticated evidence of authority to act. The evidence will not be accepted if dated more than six (6) months prior to the date of execution of the transaction request.

(2) *Estates closed*. If a security is registered in the name of an owner who is deceased and whose estate has been closed and the representative discharged, a transaction request must be made by the person(s) entitled to the security, as determined from the pertinent court records or the deceased owner's will, if any.

(3) *Estate not administered by court*—(i) *Special provisions under State laws*. If under applicable State law, a person is entitled to or has been recognized or appointed to administer the estate of a deceased owner without court supervised administration, that person may execute a transaction request involving a security belonging to the deceased owner, provided appropriate evidence of authority is submitted to the Department.

(ii) *Agreement of persons entitled*. If a legal representative of a deceased owner's estate has not been or is not to be appointed, the Department will honor an application for disposition of any securities belonging to the deceased owner pursuant to a written agreement provided that the Department is satisfied that:

(A) All persons entitled to share in the decedent's personal estate are parties to the agreement;

(B) Provision has been made for payment of all the decedent's debts; and

(C) The interests of any minors or incompetents have been protected.

(d) *Private organizations*—(1) *Corporations and unincorporated associations*. A transaction request involving a security registered in the name of a corporation or an unincorporated association (either in its own right or in a representative capacity), may be executed by an authorized person on its behalf. The request must be supported by evidence of the person's authority to act.

(2) *Partnerships*. A transaction request involving a security registered in the name of a partnership must be executed by a general partner.

(e) *Governmental entities*. A transaction request involving a security registered in the name of a State, county, city, school district, or other governmental entity, public body or corporation, must be executed by an authorized officer of the entity. The request must be supported by evidence of the officer's authority to act.

(f) *Public officers*. A transaction request involving a security registered in the title of a public officer must be executed by the officer. The request must be supported by evidence of incumbency.

(g) *Attorneys-in-fact*. A transaction request made by an attorney-in-fact must be accompanied by the original power of attorney or a properly authenticated copy. A power of attorney must be executed in the presence of a notary public or a certifying individual. See § 357.31. The power of attorney will not be accepted if it was executed more than two (2) years before the date of the transaction request was executed, unless the power provides that the authority of the attorney-in-fact continues notwithstanding the incapacity of the principal. If two or more attorneys-in-fact are named, all must execute the transaction request unless the power authorizes fewer than all to act. A transaction request executed by an attorney-in-fact seeking transfer of a security to the attorney-in-fact will not be accepted unless expressly authorized by the document appointing the attorney-in-fact.

(Approved by the Office of Management and Budget under control number \_\_\_\_\_.)

#### § 357.29 Time required for processing transaction request.

For purposes of a transaction request affecting the payment instructions with respect to a security, a proper request must be received not less than twenty (20) calendar days preceding the payment date. If the twentieth day preceding a payment date falls on a Saturday, Sunday, or a Federal holiday, the last day set for the receipt of a transaction request will be the last business day preceding that date. If a transaction request is received less than twenty (20) calendar days preceding a payment date, the Department may in its discretion act on such request if sufficient time remains for processing. If a transaction request is received too late for completion of the requested transaction, the transaction request will be acted upon with respect to future payments only.

#### § 357.30 Cases of delay or suspension of payment.

If evidence required by the Department in support of a transaction request is not received by the Department at least twenty (20) calendar days before the maturity date of the security or if payment at maturity has been suspended pursuant to § 357.26(e), then except as provided in § 357.27 in cases of reinvestment, the



Department will redeem the security and hold the redemption proceeds in the same form of registration as the security redeemed, pending further disposition. No other interest shall accrue or be paid on such proceeds after the security is redeemed.

#### § 357.31 Certifying individuals.

(a) *General.* The following individuals may certify signatures on transaction request forms:

(1) Officers and employees of depository institutions and officers of corporate central credit unions who have been authorized:

(i) Generally to bind their respective institutions by their acts;

(ii) Unqualifiedly to guarantee signatures to assignments of securities;

or

(iii) To certify assignments of securities.

(2) Officers and authorized employees of Federal Reserve Banks.

(3) Officers of Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives, the Central Bank for Cooperatives, and Federal Home Loan Banks.

(4) Commissioned officers and warrant officers of the Armed Forces of the United States but only with respect to signatures on forms executed by Armed Forces personnel, civilian-field employees, and members of their families.

(5) Such other persons as the Commissioner of the Public Debt or his designee may authorize.

(b) *Foreign countries.* The following individuals are authorized to certify signatures on transaction request forms executed in a foreign country:

(1) United States diplomatic or consular officials.

(2) Managers and officers of foreign branches of insured depository institutions.

(3) Notaries public and other officers authorized to administer oaths, provided their official position and authority is certified by a United States diplomatic or consular official under seal of the office.

(c) *Duties and liabilities of certifying officers.*—(1) *General.* Except as specified in paragraph (c)(2) of this section, a certifying individual shall require that the transaction request form be signed in the certifying individual's presence after he or she has established the identity of the person seeking the certification. An employee who is not an officer would insert the words "authorized signature" in the space provided for the title. A certifying individual and the organization of which the certifying individual is an officer or

employee are jointly liable for any loss the United States may incur as a result of the individual's negligence.

(2) *Signature guaranteed by depository institution.* The transaction request form need not be executed in the presence of a certifying individual if he or she unqualifiedly guarantees the signature, in which case the certifying individual shall, after the signature, endorse in the following form:

"signature guaranteed, First National Bank of Smithville, Smithville, NH, by A.B. Doe, President", and add the date.

(3) *Absence of signature guaranteed by depository institution.* A transaction request form need not be actually signed by the owner in any case where a certifying individual associated with a depository institution has placed an endorsement on the form reading substantially as follows: "Absence of signature by owner and validity of transaction guaranteed, Second State Bank of Jonesville, Jonesville, NC, by B.R. Butler, Vice President". The endorsement should be dated, and the seal of the depository institution should be added. This form of endorsement is an unconstitutional guarantee to the Department that the depository institution is acting as attorney-in-fact for the owner under proper authorization.

(d) *Evidence of certifying individual's authority.* The authority of a certifying individual to act is evidenced by affixing to the certification the following:

(1) *Officers and employees of depository institutions.*—The institution's seal, signature guarantee stamp, or, if the authorized issuing agent for U.S. Savings Bonds, a legible imprint of the issuing agent's dating stamp.

(2) *Officers and authorized employees of Federal Reserve Banks.*—Whatever is prescribed in procedures established by the Department.

(3) *Officers and employees of corporate central credit unions and other entities listed in § 357.31(a)(3).*—The entity's seal.

(4) *Notaries public, diplomatic or consular officials.*—The official seal or stamp of the office. If the certifying individual has no seal or stamp, then the official's position must be certified by some other authorized individual under seal or stamp, or otherwise proved to the satisfaction of the Department.

(5) *Commissioned or warrant officers of the United States Armed Forces.*—A statement which sets out the officer's rank and the fact that the person executing the transaction request is one whose signature the officer is authorized to certify under these regulations.

(e) *Interested persons not to act as certifying individual.* Neither the transferor, the transferee, nor any person having an interest in a security may act as a certifying individual. However, an authorized officer or employee of a depository institution may act as a certifying individual on a transaction request for transfer of a security to the institution, or any request executed by another individual on behalf of the institution.

#### § 357.32 Submission of transaction requests; further information.

Transaction requests and requests for forms and information may be submitted to any Federal Reserve Bank or to the Bureau of the Public Debt, T-DAB, Washington, DC 20239-0001. The Federal Reserve Banks, as fiscal agents of the United States, are authorized to perform such functions as may be delegated to them by the Department in order to carry out the provisions of this Part. The locations of the Federal Reserve Banks are:

##### *Federal Reserve Bank and Location*

Boston, Boston, Massachusetts  
 New York, New York, New York  
 Buffalo Branch, Buffalo, New York  
 Philadelphia, Philadelphia, Pennsylvania  
 Cleveland, Cleveland, Ohio  
 Cincinnati Branch, Cincinnati, Ohio  
 Pittsburgh Branch, Pittsburgh, Pennsylvania  
 Richmond, Richmond, Virginia  
 Baltimore Branch, Baltimore, Maryland  
 Charlotte Branch, Charlotte, North Carolina  
 Atlanta, Atlanta, Georgia  
 Birmingham Branch, Birmingham, Alabama  
 Jacksonville Branch, Jacksonville, Florida  
 Miami Branch, Miami, Florida  
 Nashville Branch, Nashville, Tennessee  
 New Orleans Branch, New Orleans, Louisiana  
 Chicago, Chicago, Illinois  
 Detroit Branch, Detroit, Michigan  
 St. Louis, St. Louis, Missouri  
 Little Rock Branch, Little Rock, Arkansas  
 Louisville Branch, Louisville, Kentucky  
 Memphis Branch, Memphis, Tennessee  
 Minneapolis, Minneapolis, Minnesota  
 Helena Branch, Helena, Montana  
 Kansas City, Kansas City, Missouri  
 Denver Branch, Denver, Colorado  
 Oklahoma City Branch, Oklahoma City, Oklahoma  
 Omaha Branch, Omaha, Nebraska  
 Dallas, Dallas, Texas  
 El Paso Branch, El Paso, Texas  
 Houston Branch, Houston, Texas  
 San Antonio Branch, San Antonio, Texas  
 San Francisco, San Francisco, California  
 Los Angeles Branch, Los Angeles, California  
 Portland Branch, Portland, Oregon  
 Salt Lake City Branch, Salt Lake City, Utah  
 Seattle Branch, Seattle, Washington

**Subpart D—Additional Provisions****§ 357.40 Additional requirements.**

In any case or any class of cases arising under these regulations, the Secretary of the Treasury ("Secretary") may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of the Secretary be necessary for the protection of the interests of the United States.

(Approved by the Office of Management and Budget under control number \_\_\_\_\_)

**§ 357.41 Waiver of regulations.**

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of the United States or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not impair any existing rights, and the Secretary is satisfied that such action will not subject the United States to any substantial expense or liability.

**§ 357.42 Preservation of existing rights.**

Nothing contained in these regulations shall limit or restrict existing rights which holders of securities issued before the effective date of this part may have acquired under the circulars offering such securities for sale or under the regulations in force at the time of acquisition.

**§ 347.43 Liability of Department and Federal Reserve Banks.**

The Department and the Federal Reserve Banks may rely on the information provided in a tender or transaction request form and are not required to verify the information. The Department and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in a tender or transaction request form or evidence submitted in support thereof. In the event that the Department or a Federal Reserve Bank is unable to make a payment when due, the liability of the United States and the Reserve Bank is limited to the amount of the payment.

**§ 357.44 Liability for transfers to and from T-DAB.**

A depository or sending institution that transfers to, or receives, a security from T-DAB is deemed to be acting as agent for its customer and agrees thereby to indemnify the United States and the Federal Reserve Banks from any claim, liability, or loss resulting from the transaction.

**§ 357.45 Supplements, amendments or revisions.**

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to securities.

[FR Doc. 85-28131 Filed 11-29-85; 8:45 am]

BILLING CODE 4810-35-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 60**

[AD-FRL-2932-3]

**Standards of Performance for New Stationary Sources; Industrial-Commercial-Institutional Steam Generating Units**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule; correction.

**SUMMARY:** This notice corrects an omission to the June 19, 1984 (49 FR 25102), which proposed standards of performance for Industrial-Commercial-Institutional steam generating units (Subpart Db). Because of an oversight, the proposal of Subpart Db did not include a proposed amendment of Subpart D NO<sub>x</sub> standards concerning nitrogen oxides (NO<sub>x</sub>) emission standards for steam generating units firing mixtures of natural gas and wood residue. This amendment would make the Subpart D NO<sub>x</sub> standards for these fuels consistent with the NO<sub>x</sub> standards proposed on June 19, 1984. Today's notice would correct that oversight.

**DATES:** *Comments.* Comments must be received by February 18, 1986.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by December 23, 1985, a public hearing will be held on January 16, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will be held.

*Request to Speak at Hearing.* Persons wishing to present oral testimony must contact EPA by December 23, 1985.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Attention: Docket No. A-79-02.

*Docket:* Docket No. A-79-02, containing supporting information used in developing the Subpart Db proposal, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m.,

Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fred Porter or Mr. Walter H. Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5624.

**SUPPLEMENTARY INFORMATION:****Background**

On June 19, 1984, standards of performance were proposed for Industrial-Commercial-Institutional steam generating units (Subpart Db; 49 FR 25102). The proposed standards included emission limits for a number of fuels and pollutants including NO<sub>x</sub> emission limits for steam generating units firing mixtures of natural gas and wood.

The NO<sub>x</sub> standard proposed for steam generating units firing mixtures of natural gas and wood is 129 ng/J (0.3 lb/million Btu) heat input and would apply to all steam generating units firing this fuel mixture that are larger than 29 megawatts (100 million Btu/hr) heat input capacity and that commence construction after June 19, 1984. For steam generating units larger than 73 megawatts (250 million Btu/hr) heat input constructed after June 19, 1984, the proposed Subpart Db emission standard of 129 ng/J (0.3 lb/million Btu) for mixtures of natural gas and wood supersedes the Subpart D NO<sub>x</sub> emission standard of 86 ng/J (0.2 lb/million Btu), which was adopted in 1976 (41 FR 5139) and covered units constructed after August 18, 1971. The Subpart Db emission standard of 129 ng/J (0.3 lb/million Btu) is based on a review of data that was not available in 1976 when the Subpart D standard was adopted.

Because of an oversight, the Subpart Db standards proposal on June 19, 1984, did not include a proposed amendment to amend the Subpart D NO<sub>x</sub> standards for units firing mixtures of natural gas and wood to the same 129 ng/J (0.3 lb/million Btu) emission limit. Without such a change, natural gas and wood-fired steam generating units constructed after June 19, 1984 (Subpart Db), would be subject to a 129 ng/J (0.3 lb/million Btu) emission limit and older units constructed between August 18, 1971, and June 18, 1984 (Subpart D), would be subject to a more restrictive emission

limit of 86 ng/J (0.2 lb/million Btu). This notice corrects that oversight.

A discussion of the proposed Subpart Db NO<sub>x</sub> emission standards and their associated technical data base can be reviewed in the Subpart Db proposal (49 FR 25102). Additionally, the technical data base supporting the Subpart Db proposal can be reviewed in Docket A-79-02.

Dated: November 15, 1985.

Charles L. Eikins,  
Acting Assistant Administrator.

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7411 and 7601(a)

2. In 40 CFR 60, § 60.44 is proposed to be amended by revising paragraphs (a)(1) and (a)(2) as follows.

### § 60.44 Standards for nitrogen oxides.

(a) \* \* \*

(1) 86 nanograms per joule heat input (0.20 lb per million Btu) derived from gaseous fossil fuel.

(2) 130 nanograms per joule heat input (0.30 lb per million Btu) derived from liquid fossil fuel, liquid fossil fuel and wood residue, or gaseous fossil fuel and wood residue.

[FR Doc. 85-28428 Filed 11-29-85; 8:45 am]  
BILLING CODE 6560-50

## 40 CFR Part 141

[WH-FRL-2933-7]

### National Primary Drinking Water Regulations; Public briefing

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Briefing.

Notice is hereby given that a public briefing will be held on the National Revised Primary Drinking Water Regulations beginning at 9:00 AM on December 19, 1985, in the EPA Headquarters Conference Room 3, North Conference Area, 401 M Street, SW., Washington D.C. 20460.

The purpose of the briefing is to present an overview of EPA's regulatory activities as part of the National Revised Primary Drinking Water Regulations, under the Safe Drinking Water Act (42 U.S.C. 300 f et seq.). EPA will describe the following proposed regulations:

- Proposed Maximum Contaminant Levels (MCLs) and monitoring/reporting requirements for 8 volatile organic

chemicals (VOCs) and monitoring requirements for 51 unregulated VOCs (50 FR 46880).

- Notice of Availability and Request for Comment on tetrachloroethylene (50 FR 47052).

- Proposed RMCLs for 11 inorganic chemicals, 28 synthetic organic chemicals and 4 microbiological contaminants (50 FR 48936).

- Proposed MCL, SMCL, monitoring/reporting and amendment of the interim regulation for fluoride (50 FR 47142).

This briefing is open to the public. It is not an opportunity for the public to present statements, although questions concerning the regulations will be answered. Public statements are encouraged at the public meetings on the regulations, which will be held as follows:

- Proposed MCL, SMCL, and monitoring for fluoride: December 18, 1985 at 9:00 AM in Room 3906, EPA, 401 M Street, SW., Washington, D.C. 20460.

- Proposed MCLs and monitoring for VOCs: January 13 (and 14 if needed), 1986, at 9:00 AM in Room 3906, at the above address.

- Proposed RMCLs for inorganic chemicals, organic chemicals, and microbiological contaminants: January 28 (and 29 if needed), 1986, at 9:00 AM in Conference Room 1, at the above address.

Any member of the public wishing to attend the public briefing should register in advance. Please contact Ms. Towana Dorsey, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-7575.

Dated: November 27, 1985.

Lawrence J. Jensen,  
Assistant Administrator for Water.

[FR Doc. 85-28723 Filed 11-29-85; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 43

[CC Docket No. 85-346; FCC 85-601]

### Commission's Rules to Eliminate Certain Reporting Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposal Rulemaking.

**SUMMARY:** The notice proposes to eliminate the filing of contracts with FCC by non-dominant carriers treated with forbearance and also proposes to eliminate the routine filing of reports of negotiations regarding foreign

communication matters, reports regarding services not covered by a tariff, and reports of service rendered free or at reduced rates. The proposed action is necessary in order to further eliminate unnecessary regulatory burdens on non-dominant carriers and to reduce burdens on all carriers by eliminating the filing of wasteful and unnecessary reports. The intended effects of the proposed action are to foster competition in the marketplace and to eliminate unnecessary regulations.

**DATES:** Comments must be filed on or before December 30, 1985 and reply comments on or before January 14, 1986.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Thomas Elcan, (202) 632-5550.

**SUPPLEMENTARY INFORMATION:**

### Lists of Subjects in 47 CFR Part 43

Communications common carriers, Contract filing with FCC, Foreign communications, International agreements and treaties, Reporting and recordkeeping requirements.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

### Notice of Proposed Rulemaking

Amendment of §§ 43.51, 43.52, 43.53, 43.54 and 43.74 of the Commission's Rules To Eliminate Certain Reporting Requirements: CC Docket No. 85-346.

Adopted: November 13, 1985.

Released: November 21, 1985.

By the Commission.

### I. Introduction

1. In this Notice, we are proposing revisions to Part 43 of the Commission's Rules and Regulations, 47 CFR Part 43, concerning the filing of contracts and other reporting requirements pertaining to carriers' agreements and charges. This proposal provides for: (1) Elimination of the filing of contracts by non-dominant carriers treated with forbearance; and (2) elimination of reports of negotiations regarding foreign communication matters, reports regarding services not covered by a tariff, and reports of service rendered free or at reduced rates for all carriers.

## II. Background

2. Pursuant to Part 43 of the Commission's Rules and Regulations, communications common carriers are required to file with the Commission contracts and reports as follows:

*Section 43.51: Contracts and concessions.* Requires the filing of contracts between carriers for: (1) The exchange of services, (2) the interchange or routing of traffic and matters concerning rates and division of tolls, and (3) agreements with foreign governments. Also requires subject carriers to maintain on file at their offices contracts with connecting carriers.

*Section 43.52: Reports of negotiations regarding foreign communication matters.* Requires the filing of a monthly report by each carrier engaged in foreign traffic covering all negotiations, written or oral, initiated during the previous month with any foreign administration or carriers.

*Section 43.53: Reports regarding division of international telegraph communication charges.* Requires the filing of a report by any carrier engaged in overseas telegraph communications describing the arrangements for division of tolls with the foreign countries involved.

*Section 43.54: Reports regarding services performed by telegraph carriers.* Requires the filing of reports by telegraph carriers for service that is not covered by a tariff. The services covered by this section include, for example, communication service wholly within or between foreign countries, the leasing of wires to other communication carriers, errand service by messenger, time service and burglar alarm service.

*Section 43.74: Service rendered free or at reduced rates pursuant to section 396(h) of the Communications Act.* Requires the filing of reports of free or reduced rates for noncommercial educational television or radio services.

3. Some of the data reported pursuant to sections may no longer be useful. Through the *Competitive Carrier Rulemaking*<sup>1</sup> the Commission has

reduced or eliminated unnecessary regulatory burdens on non-dominant common carriers because of a determination that these carriers face strong competition in the marketplace. As to certain of these non-dominant carriers, the Commission concluded that it could forbear from regulating altogether. The Commission concluded that the complaint process under section 208 of the Communications Act, U.S.C. 208, market forces and the Commission's power to reimpose tariff filing and facilities authorizing requirements if necessary were sufficient to check these carriers' ability to charge unjust, unreasonable or discriminatory rates. We no longer require the filing of tariffs by non-dominant carriers treated with forbearance.

## III. Discussion

4. For the same reasons which have led us to adopt the policies described in the preceding section, we tentatively conclude that it is within our discretion to exempt non-dominant carriers from filing copies of contracts. Section 211(a) of the Act, 47 U.S.C. 211(a), requires that every carrier file contracts with other carriers affecting traffic regulated under the Act. Section 211(b) provides that the Commission "shall also have authority to exempt any carrier from submitting copies of such minor contracts as the Commission may determine." Due to non-dominant carriers' lack of market power, and the competitive forces which surround them, we conclude that any contract between non-dominant carriers can be reasonably interpreted as "minor" and thus subject to our exemption power under section 211(b).<sup>2</sup> We further tentatively find that the costs of filing those contracts and of maintaining them in the Commission's files outweigh any limited benefits of their being on file. If the party can demonstrate that a limited category of non-dominant carrier contracts is not minor within the meaning of section 211(b), we would consider requiring the subject carriers to retain those contracts on file in their offices. See § 43.51(e) of the Rules, 47 CFR 43.51.

5. Further, certain reports heretofore considered valuable are no longer necessary for the Common Carrier Bureau staff to perform its monitoring of carrier activities. This is particularly true in the case of non-dominant carriers which do not have the power to control prices in the marketplace. The complaint procedures available under the Communications Act will be more than sufficient to obtain any information needed. Thus, the requiring of recurring reports appears to be wasteful. In addition, these reports also seem to be unnecessary due to lack of interest by the public in the reports. During the past three to four years we have had few or no requests from the public to review these various reports, which leads us to believe that the preparation and routine filing of such reports are wasteful and unnecessary.

6. We are, therefore, soliciting comments on our proposal to eliminate the requirements for filing of contracts and reports by non-dominant carriers treated with forbearance except upon Bureau staff request.<sup>3</sup> We are unaware of any reason why we should continue to require copies of these documents to be filed routinely with us.

7. We also seek comments on the proposal to eliminate the filing of reports of negotiations regarding foreign communication matters. It is our tentative view that these reports are not of substantial value to the Bureau staff since any negotiations that result in a contractual agreement can be made known to the staff through the contract, if required to be filed, or can be requested by the staff. The simple notification that negotiations are occurring does not seem to serve any useful purpose.

8. We also seek comments on the proposal to eliminate the requirement for filing of reports regarding services performed by telegraph carriers. This report has likewise become of less value to the Bureau staff. The services in question are provided by non-dominant carriers and the reports concerning these services are no longer needed by the staff. In addition, the public has not

<sup>1</sup> Policy and Rules Concerning Rates and Facilities Authorizations for Competitive Carrier Services (CC Docket No. 79-252), Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), First Report and Order, 85 FCC 2d 1 (1980), Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), Second Report and Order, 91 FCC 2d 59 (1982), recon., FCC 83-69, released Mar. 21, 1983, Second Further Notice of Proposed Rulemaking, FCC No. 82-187, released Apr. 21, 1982, Third Further Notice of Proposed Rulemaking, Mimeo No. 33547, released June 14, 1983, 48 FR 26292 (June 21, 1983), Third Report and Order, Mimeo No. 012, released Oct. 6, 1983, 48 FR 46791 (Oct. 15, 1983), Fourth Report and Order, 65 FCC 2d 554 (1983), Fourth Further Notice of Proposed Rulemaking, FCC 84-82, released Mar. 22,

1984, 49 FR 17856 (Mar. 28, 1984), Fifth Report and Order, FCC 84-394, released Aug. 27, 1984, 49 FR 34824 (Sept. 4, 1984), Sixth Report and Order, FCC 84-566, released Jan. 4, 1985, 50 FR 1215 (Jan. 10, 1985), rev'd sub nom. MCI Telecommunications Corp. v. F.C.C., No. 85-1030 (D.C. Cir. 1985).

<sup>2</sup> The legislative history of the Act indicates that the "minor" contracts referred to in section 211(b) are any traffic contracts referred to in section 211(a) which the Commission determines to be minor. See H.R. Report No. 1850, 73d Cong., 2d Sess. (June 1, 1934), at 6; Statement of Sosthenes Behn, Hearings before H.R. Comm. on Interstate and Foreign Commerce, 73d Cong., 2d Sess., on H.R. 8301, April 10, 1934, at 228.

<sup>3</sup> Further, we seek comments on the revisions in § 43.53(a) being proposed to more accurately describe the reports currently being provided. These include: (1) Substituting the word "toll" for "telegraph" to indicate the requirement for filing division of tolls for voice and data services as well as telegraph, (2) striking the word "continental" so as to include communications from Alaska, Hawaii etc., (3) changing the word "country" to "jurisdiction" to more correctly describe points such as Bermuda and Hong Kong, and (4) adding language to specify the toll charge information required to be filed, such as accounting rate, settlement rate and currency data.

expressed any interest in this information during the past several years. Further, since the Commission does not require the filing of similar reports by non-telegraph carriers, it is our tentative view that this proposed elimination will further the equitable treatment of carriers.

9. Further, we seek comments concerning the elimination of the requirement for filing of reports of free or reduced rates for noncommercial educational television or radio services. This report appears to be of little value to the Bureau staff, and the public has not, in recent years, expressed sufficient interest in the report to warrant its continued filing.

10. Finally, we seek comments on any other problems related to the issues presented here that interested parties may raise.

11. Through this proceeding, we seek to relieve carriers of the burden of preparing reports which no longer appear necessary. We have set forth in the Appendix to this Notice those specific rule changes that we tentatively find to be warranted. The Commission believes that the amendment of Part 43 it is proposing would be in furtherance of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.* Under this Act an agency is required to review its Rules and Regulations and determine whether they are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. The Commission believes that the modifications discussed in the NPRM are in compliance with the Paperwork Reduction Act of 1980. However, implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

#### IV. Regulatory Flexibility Act Certification

12. Pursuant to the Regulatory Flexibility Act of 1980, it is certified that the rule changes proposed in this proceeding are exempt from application of the statute because they will not have a significant economic impact on a substantial number of small entities. This certification shall be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605.

#### V. Ordering Clauses

13. Pursuant to our authority under sections 4(i), 4(j), 201-205, 211, 219, and 403 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201-205, 211, 219, and 403, it is ordered that this

rulemaking proceeding is instituted. Comments on the proposed rule changes shall be due on December 30, 1985 with reply comments due on January 14, 1986.

14. For purposes of this non-restricted notice and comment proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts this Notice until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier.

In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.1231 of the Commission's Rules and Regulations, 47 CFR 1.1231.

15. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Order.

16. In accordance with the provisions of § 1.419(b) of the Commission's Rules and Regulations, 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments without regard to form (as long as the

docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters at 1919 M Street, NW., Washington, D.C.

17. The Secretary of the Commission shall cause a copy of this Notice to be published in the **Federal Register**. Federal Communications Commission.

William J. Tricarico,  
Secretary.

#### Appendix—Proposed Rules

It is proposed to amend Part 43 of the Commission's Rules, 47 CFR Part 43, as follows:

1. Section 43.51 is revised to read:

##### § 43.51 Contracts and concessions.

Any communications common carrier engaged in domestic or foreign communication, or both, which has not been classified as non-dominant pursuant to § 61.12(e) of the Commission's Rules and which enters into a contract with another carrier must file with the Commission within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization or other arrangement to which it is a party and amendments thereto with respect to the following: (a) The exchange of services; (b) the interchange or routing of traffic and matters concerning rates, division of tolls, or the basis of settlement of traffic balances; and (c) the rights granted to the carrier by any foreign government for the landing, connection, installation, or operation of cables, land lines, radio stations, offices, or for otherwise engaging in communication operations. If the agreement is made other than in writing, a certified statement covering all details thereof must be filed by at least one of the parties to the agreement. Each other party to the agreement which is also subject to these provisions may, in lieu of also filing a copy of the agreement, file a certified statement referencing the filed document. The Commission may request any communication common carrier not required to file tariffs and therefore not subject to the provisions of this section, to submit such documents at any time.

##### § 43.52 [Removed]

2. Section 43.52 is removed.

3. Section 43.53 is revised to read:

##### § 43.53 Reports regarding division of international toll communication charges.

(a) Each communication common carrier engaged directly in the transmission or reception of

communications between the United States and any foreign jurisdiction must file a report with the Commission within thirty (30) days of the date of any arrangement concerning the division of the total toll charges, including accounting rate, settlement rate and currency data, on such communications other than transiting. A carrier first becoming subject to the provisions of this section must, within thirty (30) days thereafter, file with the Commission a report covering any such existing arrangements.

(b) In the event that any change is made which affects data previously filed, a revised page incorporating such change or changes must be filed with the Commission not later than thirty (30) days from the date the change is made: Provided, however, that any change in the amount of foreign participation in charges for outbound communications or in the respondent's participation in charges for inbound communications must be filed not later than thirty (30) days from the date the change is agreed upon.

(c) A single copy of each such report must be filed in a format required by the Commission.

§ 43.54 [Removed]

4. Section 43.54 is removed.

§ 43.74 [Removed]

5. Section 43.74 is removed.

[FR Doc. 85-28404 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-334; RM-5111]

FM Broadcast Station in Clifton, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Action taken herein proposes the substitution of Class C Channel 271 for Channel 237A at Clifton, Arizona, and modification of the permit for Station KXJJ(FM), in response to a petition filed by Double Eagle Broadcasting.

**DATES:** Comments must be filed on or before January 16, 1986, and reply comments on or before January 31, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 73**

Radio Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Sections 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

**Notice of Proposed Rule Making**

In the matter of amendment of §73.202(b), Table of Allotments, FM Broadcast Stations, (Clifton, Arizona), [MM Docket No. 85-334 RM-5111].

Adopted: November 4, 1985.

Released: November 25, 1985.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration a petition for rule making filed by Double Eagle Broadcasting ("DEB"), permittee of Station KXJJ(FM), Clifton, Arizona, seeking the substitution of Class C Channel 271 for 237A and modification of its permit accordingly.<sup>1</sup> Petitioner indicates that it will apply for the channel, if allotted.

2. DEB advises that its request results from a loss of its previously permitted transmitter site due to flooding. Since other useable sites for a Class A operation are allegedly unavailable, DEB claims that a higher classification is required to satisfy the requirements of § 73.315(a) of the Commission's Rules with regard to city-grade coverage. DEB adds that while Channel 271 is the only Class C channel available to Clifton, it may also be allotted as a Class C2.

3. A staff engineering study reveals that Channel 271 can be allotted to Clifton consistent with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules.

4. Since the proposal herein is located within 320 kilometers (199 miles) of the common U.S.-Mexico border, the Commission must obtain concurrence by the Mexican government.

5. In view of the above, we shall propose the substitution of Class C Channel 271 to Clifton, Arizona, as that community's first local broadcast service. Also, we shall propose to modify the license of Station KXJJ(FM), as requested by Double Eagle Broadcasting, in the event Channel 271 is substituted for Channel 237A at Clifton, Arizona. However, in conformity with Commission precedent, should another interest in the Clifton proposal be shown, the modification

<sup>1</sup> Petitioner also indicates that it would accept a Class C1 or C2 channel if we determine that 271 is unavailable as a Class C channel.

could not be made unless at least one additional equivalent channel is available in the community to accommodate any other expression of interest. See, *Modification of FM and TV Stations*, 98 F.C.C. 2d 916 (1984).

6. Since the proposal could provide a first wide coverage area broadcast service to Clifton, Arizona, the Commission considers it appropriate to elicit comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Clifton, Arizona	237A	271

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before January 16, 1986, and reply comments on or before January 31, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, on their counsel or consultant, as follows: C.R. Crisler, Double Eagle Broadcasting, c/o P.O. Box 118, Payson, Arizona 85547.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation

required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel that was requested for any of the communities involved.

4. *Comments and Reply Comments:* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-28501 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 85-332; RM-4945]

#### FM Broadcast Station in Oro Valley, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** Action taken herein proposes the allotment of Channel 248A to Oro Valley, Arizona, as that community's first local FM broadcast service, in response to a petition filed on behalf of Homero Serapio Pacheco.

**DATES:** Comments must be filed on or before January 16, 1986 and reply comments on or before January 31, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

#### Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Oro Valley, Arizona); [MM Docket No. 85-332 and RM-4945].

Adopted: November 4, 1985.  
Released: November 25, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed on behalf of Homero Serapio Pacheco ("petitioner") seeking the allotment of FM Channel 248A<sup>1</sup> to Oro Valley, Arizona, as that community's first local broadcast service. Petitioner indicates that he will apply for the channel, if allotted.

2. A staff engineering study has determined that Channel 248A can be allotted to Oro Valley consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. As Oro Valley is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the Commission must obtain consent to the proposal by the Mexican government.

4. Since the proposal could provide a first local broadcast service to Oro Valley, the Commission will invite comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Oro Valley, Arizona		248A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before January 16, 1986, and reply comments on or before January 31, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mark E. Fields, Esq., Miller and Fields, P.C., P.O. Box 33003, Washington, D.C. 20033; [Counsel for Petitioner].

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments.

<sup>1</sup> Petitioner proposed Channel 271A at Oro Valley. However, that proposal conflicts with a request to substitute Channel 271 for 237A at Clifton, Arizona (RM-5111). A staff engineering study determined that no other channel is available to Clifton, while Channel 248A is alternately available at Oro Valley. Accordingly, we have substituted that channel for consideration herein.

§ 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-28503 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 85-333; RM-4966]

#### FM Broadcast Station in Bedford, NH

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the allotment of FM Channel 243A to Bedford, New Hampshire, in response to a petition filed by Richard Taylor. This allotment could provide a first FM service to the community.

**DATES:** Comments must be filed on or before January 16, 1986, and reply comments on or before January 31, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

#### SUPPLEMENTARY INFORMATION:

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

**Authority:** Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

#### Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Bedford, New Hampshire); [MM Docket No. 85-333 and RM-4966].

Adopted: November 4, 1985.

Released: November 25, 1985.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Richard Taylor ("petitioner"), requesting the allotment of FM Channel 243A to Bedford, New Hampshire, as that community's first local FM service. Petitioner submitted information in support of the proposal and stated his intent, personally or through a related organization, to apply for the channel, if allocated.

2. The channel can be allotted consistent with the Commission's minimum distance separation requirements provided there is a site restriction imposed of 4.2 kilometers (2.6 miles) southwest of Bedford. The site restriction will prevent a short spacing to Station WXXZ, Channel 244A, Rochester, New Hampshire.

3. Since the allotment of Channel 243A to Bedford, New Hampshire is within 320 kilometers (200 miles) of the common U.S.-Canadian border, concurrence of the Canadian government is required.

4. In view of the fact that the proposed allotment could provide a first FM service to Bedford, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules for the following community:

City	Channel No.	
	Present	Proposed
Bedford, New Hampshire		243A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.



**Note.**—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before January 16, 1986, and reply comments on or before January 31, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Richard Taylor, 17 Amble Road,  
Chelmsford, MA 01824 (petitioner)  
Early D. Monroe, EDM & Associates,  
1110 Vermont Avenue, N.W., Suite  
1130, Washington, D.C. 20005,  
(consultant to the petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

#### Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set

forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished to the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-28502 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket No. PS-87; Notice 11]

### Transportation of Gas or Hazardous Liquids by Pipeline; Welding Requirements

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** RSPA proposes to amend Parts 192 and 195 by generally conforming requirements for welding procedure qualification and for welder qualification. Identical performance standards are proposed for qualification of welding procedures under both regulations, except for retained provisions for low stress level gas pipelines in Part 192. Industry standards incorporated by reference would be retained for qualification of welders and for weld acceptability standards.

**DATE:** Interested persons are invited to submit written comments on this proposal. All comments must be filed by January 31, 1986, although late filed comments will be considered as far as is practicable. Interested persons should submit as a part of their written comments all material that is considered relevant to any statement of fact or argument made.

**ADDRESS:** Comments should be sent to the Dockets Branch, Room 8426, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and identify the docket and notice numbers. All comments and other docket material are available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day.

**FOR FURTHER INFORMATION CONTACT:** William A. Gloe, (202) 426-2082, regarding the content of this proposal, or the Dockets Branch, (202) 426-3148, regarding copies of the proposal or other information in the docket.

#### SUPPLEMENTARY INFORMATION:

##### Background

This proceeding continues the process of conforming the welding requirements of Part 192 for gas pipelines and the welding requirements for hazardous liquid pipelines in Part 195. The two sets of requirements were developed separately at different times, and in

some instances treat similar welding matters differently. In some cases a welding matter is treated by one set of standards but not the other. Certain sections, such as those pertaining to welders on low stress pipelines who work primarily on gas distribution systems are necessarily distinct from the welding requirements for liquid pipelines. However, where language differences are merely in style or cannot be explained on the basis of technical or safety differences between gas and liquid pipelines, RSPA believes it would be advantageous to conform the two sets of regulations as far as possible. RSPA and many State agencies will be enforcing both sets of standards. Also, many companies operate both gas and hazardous liquid pipelines. Conformity would ease the burden of compliance for all. One objective of this rulemaking, therefore, is to conform sections of Parts 192 and 195 on qualification of welding procedures, qualification of welders, and on preheating and stress relieving. The relevant sections are §§ 192.223, 192.225, 192.227, 192.237, 192.239, 195.214, and 195.222. Other sections have been deferred for more study. Sections under study may be the subject of future rulemaking proceedings.

#### Qualification of Welding Procedures

Requirements that welding be performed under qualified written procedures appear in §§ 192.223(a) and 192.225 and § 195.214(b). Using performance language, § 195.214(b) requires that welding be "performed in accordance with established written welding procedures that have been tested to assure that they will produce sound, ductile welds that comply with the requirements of this subpart [Subpart D]." On the other hand, § 192.225 requires qualification of welding procedures in accordance with section 2 of API Standard 1104 or Section IX of the ASME Boiler and Pressure Vessel Code, makes provisions for separate qualification when using the ASME Code, and requires that each procedure must be recorded, and the record retained and followed whenever the procedure is used. Comparing § 192.225 with paragraph (b) of § 195.214, the single regulatory difference is a subtle indication of how the procedures must be qualified, or tested. The word qualified, as used in the industry standards, means "tested." API defines Qualified Welding Procedure as follows:

The term "qualified welding procedure" as used in this standard shall mean a tested and proven detailed method by which sound welds having suitable mechanical properties can be produced.

The ASME Code does not define "qualified welding procedure" directly, but states the following with regard to the "Welding Procedure Specification" (WPS):

Each manufacturer or contractor shall qualify the WPS by the welding of test coupons, and the testing of specimens, as required in this Code, and recording the welding data and test results in a document known as a "Procedure Qualification Record" (PQR).

Section 195.214 uses the word "tested." The only connotation of § 192.225 not expressed by § 195.214 is that the industry codes incorporated by reference in § 192.225 require destructive testing. Thus, § 192.225 provides for destructive testing in qualification of the welding procedure by reference to the industry codes, but uses performance language for establishment of the procedures. Both Parts 192 and 195 use the phrase "established written welding procedures" as performance language that does not involve reference to either API 1104 or the ASME Code. Because of the very minimal difference, therefore, in the actual difference between the gas and liquid regulations, RSPA proposes to conform the two by using the same performance language, by specifying destructive testing of test welds, and by stating the requirements as follows:

Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

The present language regarding "sound, ductile welds" would be replaced by the more direct reference to the acceptability standards of the subpart. Requirements for weld soundness are included in the acceptability standards while ductility is tested only as part of the welding procedure qualification (the guided bend test) and specified in the filler metal specification as percent elongation. RSPA believes that requirements for ductility must be considered without specific regulation in the avoidance of weld cracks. Because cracks are not permitted in pipeline girth welds, there is no further safety benefit in requiring "ductile" welds without defining the extent of ductility necessary or the purpose. The present requirement for "sound, ductile welds" does not refer back to destructive testing of the test welds in qualification of the procedure. By emphasizing destructive testing and by specifying the objective as meeting the standards of acceptability, RSPA believes that both regulations can be

more readily understood and that safety will be enhanced.

Paragraph (c) of § 192.225 now reads:

(c) Each welding procedure must be recorded in detail during the qualifying tests. This record must be retained and followed whenever the procedure is used.

There are similar requirements for welding procedures under Part 195 (the last sentence of § 195.214): "Detailed records of these tests must be kept by the operator involved." Again, RSPA is concerned with the unnecessary difference between Parts 192 and 195, and proposes that these similar requirements for welding procedures under both regulations be restated as:

Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

Although the language would be more complete for both regulations, RSPA feels that this proposed restatement of existing requirements would impose no additional burden on the industry than the current regulations.

#### Qualification of Welders

Requirements for qualification of welders are provided by paragraph (b) of § 192.223, and § 192.227, and § 192.222. Paragraph (b) of 192.223 was discussed in the original issuance of Subpart E as intending to convey the meaning that welders are to be qualified, or tested, in accordance with API 1104 or the ASME Boiler and Pressure Vessel Code such that welders will be capable of performing welding under the procedure to be used. The paragraph now states:

(b) Welding must be performed by welders who are qualified under §§ 192.227 and 192.229 for the welding procedure to be used.

Detailed requirements are contained in section 3 of API 1104 and in section IX of the ASME Code, as referenced in § 192.227, to assure that welders can perform welding under the required procedure. Section 192.229 specifies limitations on types of welder qualification and the need for periodic requalification for gas pipelines only Part 195 has no similar requirement.

Because the system used in API 1104 and the ASME Code permits a welder to weld under more than one welding procedure without the need for requalification, and because paragraph (b) of § 192.223 can and has been misinterpreted to require that welders be tested for each welding procedure to be used, the paragraph can be misleading. RSPA proposes to delete paragraph (b) of § 192.223 because it

merely references the requirements of §§ 192.227 and 192.229, and to combine the general welding procedure requirements now in § 192.223(a) in § 192.225.

Sections 192.227 and 195.222 are intended to serve the same purpose, with the exception of paragraph (c) of § 192.227. That paragraph provides for qualification of welders who work on low stress piping, such as in distribution systems. No similar requirement is necessary for Part 195. In May, 1984 a Notice of Proposed Rulemaking was issued to conform § 195.222 with paragraph (a) of § 192.227 by adding section IX of the ASME Code to Part 195 for welder qualification. Comments were favorable, and in September, 1984, a final rule was published in the Federal Register (49 FR 36859, September 20, 1984) Changing § 195.222 to:

Each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not requalify under that earlier edition.

Paragraph (b) of § 192.227 exempts welders from separate qualification for differences in carbon or low alloy steels being welded when being qualified under the ASME Code. RSPA believes this paragraph to be unnecessary. Material, within broad limits, is not an essential variable for welder qualification. Accordingly, it is proposed to delete paragraph (b) of § 192.227, and to redesignate paragraph (c) as (b), retaining the exception for welder qualification on low stress gas piping.

Section 192.237, Preheating.

While proposing to delete § 192.237 from Part 192 for conformance with Part 195, RSPA believes that there is an unquestionable need for preheating certain steels for welding under conditions that would cause the weld to cool too rapidly. Preheating would be necessary to prevent weld cracking well within the chemistry limits given by paragraph (a) of § 192.237. That paragraph states:

(a) Carbon steel that has a carbon content in excess of 0.32 percent (heat analysis) or a carbon equivalent ( $C + 1/4MN$ ) of 0.65 percent (heat analysis) must be preheated for welding.

RSPA feels that this requirement originated at a time when it was considered possible that steel line pipe of such high carbon content would be manufactured and preheating would certainly be required. In the development of the steelmaking technology for line pipe, however, carbon content and carbon equivalents

have been consistently reduced through the years such that there is no danger of encountering line pipe steel of the composition. Even most pipe fittings have a carbon content of less than 0.32 percent even though welds at fittings are commonly preheated.

Paragraph (b) of § 192.237 is a performance requirement, stating that if the carbon content or carbon equivalent is less than the limits given in paragraph (a), carbon steel must be preheated for welding when—

... preheating will alleviate existing conditions that would limit the welding technique or tend to adversely affect the quality of the weld.

This requirement was derived from the 1968 edition of ANSI B31.8, which stated in part, "Preheating may also be advisable for steels having lower carbon or carbon equivalent . . .". As above, RSPA believes that the need for preheating is definite under certain conditions to prevent weld cracking, and that unnecessarily vague language to describe the need does not accomplish the intended purpose. Standards of weld acceptability as incorporated in both Parts 192 and 195 prohibit cracks in pipeline welds, and RSPA feels that these incorporated standards provide more complete, adequate control for preheating when it becomes necessary.

Paragraph (c) of § 192.237 now reads as follows:

(c) When steel materials with different preheat temperatures are being preheated for welding, the higher temperature must be used.

Paragraph 826.2 of the 1968 edition of ANSI B31.8 specified the requirement differently as follows:

When welding dissimilar materials having different preheating requirements. The material having the higher preheat temperature shall govern.

Dissimilar materials are considered to be those having widely different characteristics which is not believed likely to occur in pipeline welding. Further, the translation to "steel materials with different preheat temperatures" adds unnecessary confusion in view of the need for consideration of other factors in determining preheat temperature. Therefore, RSPA proposes to delete the requirement as unnecessary and to consider the establishment of preheat temperature relative to the material being welded as part of the qualified welding procedure.

Paragraph (d) of § 192.237 states that preheat temperatures must be monitored to ensure that the required preheat temperature is reached before, and

maintained during, the welding operation. If treated as part of the qualified welding procedure, which RSPA believes is the common practice, the preheat temperature is checked, and the interpass temperature maintained and checked as required by the procedure. The paragraph provides no additional guidance or safety regulation than would be obtained by customary practice within the industry and the requirement for qualified welding procedures.

Section 192.239, Stress relieving.

In accordance with the policy determination to conform the welding requirements of Parts 192 and 195, RSPA proposes to delete § 192.239.

Part 195 contains no separate section on stress relieving (or for preheating), does not incorporate section 2 of API Standard 1104 or section IX of the ASME Code for welding procedure qualification and, depends totally for its enforcement on the performance requirements of § 195.214 with regard to stress relieving. All of the welding variables for gas and liquid pipelines being identical, RSPA knows of no unique need for stress relieving under one regulation and not the other, and there have been no safety problems attributable to the absence of stress relieving requirements in Part 195.

Industry welding standards with which RSPA is familiar specify that stress relieving shall be stated in the welding procedure specification and used in qualification of the procedure, although separate guidance may be presented.

The need for stress relieving in § 192.239 is primarily based on the same excessively high carbon and carbon equivalent limits as in § 192.237 for preheating. There is no known circumstance where the requirement would apply. Secondly, paragraph (c) refers to carbon steel pipe with a wall thickness of more than 1/4 inches. RSPA knows of no carbon steel pipe used in pipelines or contemplated for future construction that would have a wall thickness of more than 1/4 inches. Third, the section requires that stress relieving be performed at a minimum temperature of 1,100 degrees F for carbon steels and at least 1,200 degrees F for ferritic alloy steels. Use of these minimum temperatures can result in damaging certain grades of pipe, particularly some controlled-rolled grades and ferritic alloys. Stress relieving can be satisfactorily performed at lower temperatures, as is allowed by the ASME Code. In the view of RSPA, stress relieving is a more complex subject than indicated by the section and would

require considerably more technical guidance than is provided. This guidance is contained in industry standards such as ANSI B31.8, the ASME Code, and American Welding Society publications, and is readily available to operators and to the public. The requirements of § 192.239 are thus incomplete and might inhibit development of the technology within the industry.

#### Classification

This proposal is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is so minimal that further evaluation is unnecessary. The change proposed is to conform the welding requirements of the gas and hazardous liquid pipeline safety standards with each other.

#### Regulatory Flexibility Act

Since the impact of this proposal is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects

##### 49 CFR Part 192

Pipeline safety, Welding requirements, Incorporation by reference.

##### 49 CFR Part 195

Pipeline safety, Welding requirements, Incorporation by reference.

In view of the foregoing, RSPA

proposes to amend 49 CFR 192 and 195 as follows:

#### PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A of Part 1.

##### § 192.223 [Removed]

2. By deleting § 192.223 in its entirety.

3. By revising § 192.225 to read:

##### § 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

4. By deleting paragraph (b) of § 192.227; redesignating the existing paragraph (c) as (b); and by revising paragraph (a) to read:

##### § 192.227 Qualification of Welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 3 of API Standard 1104 or section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in Appendix A may weld but may not requalify under that earlier edition.

##### § 192.237 [Removed]

5. By deleting § 192.237 in its entirety.

##### § 192.239 [Removed]

6. By deleting § 192.239 in its entirety.

#### PART 195—[AMENDED]

7. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A of Part 1.

8. By revising § 195.214 to read:

##### § 195.214 Welding: Procedures.

(a) Welding must be performed by a qualified welder in accordance with established written welding procedures that have been tested and the quality of the test welds determined by destructive testing to meet the acceptability standards of this subpart.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

##### § 195.222 Welding: Qualification of welders.

9. By revising the title of § 195.222 to read as set forth above.

Issued in Washington, D.C., on November 28, 1985 under authority delegated by 49 CFR Part 108, Appendix A.

Robert L. Paulin,

Director, Office of Pipeline Safety.

[FR Doc. 85-28554 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-60-M

# Notices

Federal Register

Vol. 50, No. 231

Monday, December 2, 1985

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

### Intent to Award a Cooperative Agreement; American Beekeeping Federation

**AGENCY:** Office of International Cooperation and Development, USDA.

**ACTIVITY:** Cooperative Agreement to conduct a tri-country symposium to facilitate the exchange of research on Africanized bees and honey bee mites.

The Office of International Cooperation and Development announces the availability of funds for Fiscal Year 1986 for a cooperative agreement with the American Beekeeping Federation. The purpose of the relationship is to facilitate the exchange of research on Africanized bees and the honey bee mite among participants from the United States, Canada, and Mexico. The symposium is intended to stimulate the interchange of information and enable participants to develop coordinated strategies to deal with the pests.

This activity is authorized by international bilateral agreements.

Assistance will be provided only to the American Beekeeping Federation, which represents U.S. packagers, beekeepers, producers, and other U.S. interests. The Federation has the required expertise to conduct this activity.

Based on the above, this is not a formal request for applications. It is estimated that approximately \$3,500 will be available in Fiscal Year 1986 to support this work.

Information may be obtained from: Richard J. Hughes, Office of International Cooperation and Development, Department of Agriculture, 202-382-8006.

Dated: November 26, 1985.

Charlie A. Rooney,

Acting Chief, Management Services, Office of International Cooperation and Development.

[FR Doc. 85-28508 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-OP-M

## Federal Grain Inspection Service

### Designation Renewal of Minnesota Department of Agriculture (MN) and Mississippi Department of Agriculture and Commerce (MS)

**AGENCY:** Federal Grain Inspection Service (FGIS), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the designation renewal of the Minnesota Department of Agriculture and Mississippi Department of Agriculture and Commerce as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

**EFFECTIVE DATE:** January 1, 1986.

**ADDRESS:** James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1647 South Building, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced that Minnesota's and Mississippi's designations terminate on December 31, 1985, and requested applications for official agency designation to provide official services within specified geographic areas in the July 1, 1985, *Federal Register* (50 FR 27034). Applications were to be postmarked by July 31, 1985. Minnesota and Mississippi were the only applicants for their respective designations and each applied for designation renewal in the areas currently assigned to those agencies.

FGIS announced the applicant names

and requested comments on same in the August 30, 1985, *Federal Register* (50 FR 35275). Comments were to be postmarked by October 15, 1985; no comments were received.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Minnesota and Mississippi are able to provide official services in the geographic area for which FGIS is renewing their designation. Effective January 1, 1986, and terminating December 31, 1988, Minnesota and Mississippi will provide official inspection services and Class X or Class Y weighing services in their specified geographic areas, which are the entire areas previously described in the June 3, *Federal Register*.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Review Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the appropriate agency at one of the following addresses:

Minnesota Department of Agriculture,  
316 Grain Exchange Building,  
Minneapolis, MN 55415  
Mississippi Department of Agriculture  
and Commerce, P.O. Box 1609,  
Jackson, MS 39205.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: November 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-28454 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-EN-M

**Request for Comments on Designation Applicants in the Geographic Areas Currently Assigned to Quincy Grain Inspection & Weighing Service (IL)**

**AGENCY:** Federal Grain Inspection Service (FGIS), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Quincy Grain Inspection & Weighing Service (Quincy).

**DATE:** Comments to be postmarked on or before January 16, 1986.

**ADDRESS:** Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lewis Lebakken, Jr., telephone (202) 282-1738.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the September 20, 1985, *Federal Register* (50 FR 38146). Applications were to be postmarked by October 21, 1985. We received two applications for the Quincy area. Quincy applied for designation renewal in the area currently assigned to that agency. Southern Illinois Grain Inspection Service, Inc., Fairview Heights, Illinois, applied for designation in a portion of the geographic area presently assigned to Quincy. This area includes only Green County and Macoupin County (southwest of a straight line from the junction of State Route 111 and the northern Macoupin County line southeast to the junction of Interstate 55 and State Route 16).

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Management Branch, Resources

Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the *Federal Register*, and the applicants will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: November 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-28455 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-EN-M

**Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to Ohio Valley Grain Inspection (IN)**

**AGENCY:** Federal Grain Inspection Service (FGIS), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces that there were no timely applicants for designation for the geographic area currently assigned to Ohio Valley Grain Inspection (Ohio Valley), pursuant to the September 20 *Federal Register* notice requesting such applicants. FGIS is again requesting applications from parties, including Ohio Valley, interested in being designated as the official agency to provide official services in the geographic area currently assigned to Ohio Valley.

**DATE:** Applications to be postmarked on or before January 2, 1986.

**ADDRESS:** Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official

services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the September 20, 1985, *Federal Register* (50 FR 38146). Applications were to be postmarked by October 21, 1985; we received no applications for the Ohio Valley designation postmarked by that date. As a result, we are again asking for applications for designation in the Ohio Valley geographic area.

Ohio Valley's designation terminates on March 31, 1986. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Ohio Valley, in the States of Indiana, Kentucky, and Tennessee, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

In Indiana: Daviess, Dubois, Gibson, Knox (except the area west of U.S. Route 41 (150) from Sullivan County south to U.S. Route 50), Pike, Posey, Vanderburgh, and Warrick Counties;

In Kentucky: Caldwell, Christian, Crittenden, Henderson, Hopkins (west of State Route 109 south of the Western Kentucky Parkway), Logan, Todd, Union, and Webster (west of Alternate U.S. Route 41 and State Route 814) Counties; and

In Tennessee: Cheatham, Davidson, and Robertson Counties.

Exceptions to the described geographic area are the following locations situated inside Ohio Valley's area which have been and will continue to be serviced by Cairo Grain Inspection Agency: Hopkinsville Elevator Company, Inc., Hopkinsville; and the L&N Railroad Siding on Alternate U.S. Route 41, 5 miles south of Hopkinsville, both in Christian County, Kentucky.

Interested parties, including Ohio Valley, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning June 1, 1986, and ending May 31, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: November 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-28456 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-EN-M

**Request for Designation Applicants To Provide Official Services in the Geographic Areas Currently Assigned to Cedar Rapids Grain Service, Inc. (IA), Champaign-Danville Grain Inspection Departments, Inc. (IL), and Springfield Grain Inspection Department (IL)**

**AGENCY:** Federal Grain Inspection Service (FGIS), USDA.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to each specified agency. The official agencies are Cedar Rapids Grain Service, Inc.; Champaign-Danville Grain Inspection Departments, Inc.; and Springfield Grain Inspection Department.

**DATE:** Applications to be postmarked on or before January 2, 1986.

**ADDRESS:** Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and

Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Cedar Rapids Grain Service, Inc. (Cedar Rapids), 1114—55th Avenue, SW., Cedar Rapids, IA 52404; Champaign-Danville Grain Inspection Departments, Inc. (Champaign-Danville), 527 E. Main Street, Danville, IL 61832; and Springfield Grain Inspection Department (Springfield), 1301 North Fifteenth Street, Springfield, IL 62702, were each designated under the Act as an official agency to provide inspection functions on June 1, 1983.

Each official agency's designation terminates on May 31, 1986. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Cedar Rapids, in the State of Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the northern Blackhawk County line; the northern and eastern Buchanan County lines; the northern Linn County line; the northern Jones County line;

Bounded on the East by the eastern Jones County line; the eastern cedar County line south to State Route 130;

Bounded on the South by State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to U.S. Route 63; and

Bounded on the West by U.S. Route 63 north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Blackhawk County.

The geographic area presently assigned to Champaign-Danville, in the States of Illinois and Indiana, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana, to U.S. Route 41;

Bounded on the East by U.S. Route 41 south to the southern Fountain County

line; the Fountain County line west to Vermillion County (in Indiana); the eastern Vermillion County line south to U.S. Route 36;

Bounded on the South by U.S. Route 36 west into Illinois, to the Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north and south from this point north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the Champaign County line; the northern Champaign County line; the western Vermillion (in Illinois) and Iroquois County lines.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Champaign-Danville and are part of this geographic area assignment:

1. Moultrie Grain Association, Cadwell, Moultrie County, Illinois;
2. Tabor and Company, Weedman Grain Company, and Pacific Grain Company, Farmer City, Dewitt County, Illinois;
3. Moultrie Grain Association, Lovington, Moultrie County, Illinois;
4. Monticello Grain Company, Monticello, Piatt County, Illinois;
5. Pittwood Grain Company, Pittwood, Iroquois County, Illinois.

Exceptions to the described geographic area are the following locations situated inside Champaign-Danville's area which have been and will continue to be serviced by the following official agencies:

- Paris Illinois Grain Inspection:
1. Miller Grain Company, Newman, Douglas County, Illinois;
  2. Miller Grain Company, Oakland, Coles County, Illinois;
  3. Cargill, Inc., Dana, Vermillion County, Indiana;
  - Titus Grain Inspection, Inc.:
    1. Boswell Grain Company, Boswell, Benton County, Indiana;
    2. Dunn Grain, Dunn, Benton County, Indiana;
    3. York Richland Grain Elevator, Inc., Earl Park, Benton County, Indiana;
    4. Raub Grain Company, Raub, Benton County, Indiana.

The geographic area presently assigned to Springfield, in the State of Illinois, pursuant to section 7(f)(2) of the Act, which may be assigned to the

applicant selected for designation, is as follows:

Bounded on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to Interstate 55; a straight line from the junction of Interstate 55 and State Route 16 northwest to the junction of State Route 111 and the Morgan County line; the southern Morgan and Scott County lines.

Bounded on the West by the western Scott, Morgan, Cass, and Schuyler County lines.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Springfield and are part of this geographic area assignment:

1. Chestervale Elevator Company, Chestervale, Logan County;
2. Pillsbury Co., Florence, Pike County;
3. East Lincoln Farmers Grain Co., Lincoln, Logan County;
4. OK Grain Company, Litchfield, Montgomery County;
5. Stonington Coop Grain Company, Stonington, Christian County.

Interested parties, including Cedar Rapids, Champaign-Danville, and Springfield, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning June 1, 1986, and ending May 31, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Date: November 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-28457 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-EN-M

### Request for Comments on Designation Applicant in a Portion of Iroquois County, IL

**AGENCY:** Federal Grain Inspection Service (FGIS), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicant for official agency designation in a portion of Iroquois County, Illinois, previously assigned to Schneider Inspection Service, Inc. This area is currently being provided service on an interim basis by Champaign-Danville Grain Inspection Departments, Inc. (Champaign-Danville).

**DATE:** Comments to be postmarked on or before January 16, 1986.

**ADDRESS:** Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0607 South Building, 1400 Independence Avenue, SE., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lewis Lebakken, Jr., telephone (202) 382-1738.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within a specified geographic area in the September 20, 1985, *Federal Register* (50 FR 38147). Applications were to be postmarked by October 21, 1985, and Champaign-Danville was the only applicant.

This notice provides interested persons the opportunity to present their comments concerning the designation applicant. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the *Federal Register*, and the applicant will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Date: November 25, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-28458 Filed 11-29-85; 8:45 am]

BILLING CODE 3410-EN-M

### DEPARTMENT OF COMMERCE

#### Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**Agency:** Bureau of the Census  
**Title:** Motor Freight Transportation and Warehousing Survey  
**Form Number:** Agency—B-514, B-515; OMB—NA

**Type of Request:** New collection  
**Burden:** 1,250 respondents; 479 reporting hours

**Needs and Uses:** This survey will be used to collect annual revenue and expense data from employer firms providing for-hire trucking and warehousing services. The data will be used by the Federal Government for computing the national accounts and for monitoring the course of continued deregulation; and by private industry for marketing analysis.

**Affected Public:** Businesses or other for-profit institutions

**Frequency:** Annually  
**Respondent's Obligation:** Mandatory  
**OMB Desk Officer:** Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: November 22, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85-28509 Filed 11-29-85; 8:45 am]

BILLING CODE 3510-07-M



**International Trade Administration****Semiconductor Technical Advisory Committee; Closed Meeting**

**SUMMARY:** The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on January 5, 1984 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: December 16, 1985 at 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Ave., NW., Washington, DC.

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.

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.

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 or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: November 25, 1985.

Milton M. Baltas,

Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85-28513 Filed 11-29-85; 8:45 am]

BILLING CODE 3510-DT-M

**National Oceanic and Atmospheric Administration****Permits; Foreign Fishing**

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery

Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235.

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302/674-2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-1366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753-6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 411 W. Fourth Avenue, Suite 2D, Anchorage, AK 99510, 907/271-4060

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 184 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368.

For further information contact John D. Kelly or Shirley Whitted (Fees, Permits, and Regulations Division, 202-634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1986 have been received between November 15, and November 22, 1985, from the Governments shown below.

Dated: November 25, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code and Fishery	Regional fishery management councils
ABS—Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean, North Pacific.
BSA—Bering Sea and Aleutian Islands Groundfish	North Pacific
GOA—Gulf of Alaska	New England, Mid-Atlantic.
NWA—Northwest Atlantic Ocean	North Pacific.
SNA—Snails (Bering Sea)	Pacific.
WOC—Pacific Groundfish (Washington, Oregon and California)	Western Pacific.
PBS—Pacific Billfishes and Sharks	

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
(*)	Vessel in support of U.S. vessels (Joint Venture).

**Joint Venture****Japan**

The Government of Japan has applied for fishing vessel permits to engage in joint venture activities off Alaska. The applications request that Japanese vessels receive transshipments of U.S. harvested pollock, Pacific cod and associated bycatch species in the BSA and GOA fisheries. The requested species amount was published November 21, 1985, 50 FR 48111. One American partner is shown, Profish International, Inc., Seattle, WA. A contract is being negotiated with an American partner for the longline Pacific cod joint venture. The American partner will be identified at the December Council meeting. In the NWA squid fisheries, 1,500 mt has been requested for *Illex* as well as *Loligo*. The American partner is Lund's Fisheries, Inc., Cape May, NJ.

**Poland**

Supplemental information has been received from the Government of the Polish People's Republic listing American partners for the joint venture applications requesting Alaska pollock

published November 21, 1985, 50 FR 48111. The partners designated and quantities requested are as follows: Alaskan Joint Venture Fisheries, Inc., Anchorage, AK (17,500 mt); Profish International, Inc., Seattle, WA, (15,000 mt); and Quest Alaska, Inc., Coos Bay, OR, (17,500).

#### China

On November 21, 1985, at 50 FR 48111, NOAA published notice of receipt of applications from the Government of the People's Republic of China to conduct a joint venture in the Gulf of Alaska in 1985. The North Pacific Fishery Management Council recommended approval of their application. Since that time the amount of pollock harvest available to joint ventures in the Gulf of Alaska has been fully utilized and the PRC is amending its application to conduct a joint venture in the BSA where an amount of U.S. harvested pollock remains available for receipt by foreign vessels. Since the North Pacific Council will not review the 1985 application again, NOAA intends to approve the PRC's revised application for the BSA fishery based on the Councils earlier recommendation on the Gulf of Alaska operations.

#### USSR

The Government of the Soviet Socialist Republics has submitted applications for permits to engage in joint venture activities off Alaska. The species request is for 15,000 mt Pacific cod; 2,200 mt Alaska pollock; 73,600 mt yellowfin sole; and associated by catch species in the GOA and BSA fisheries. The American partner identified is Marine Fisheries Resources Company International (MRCI), Seattle, WA.

[FR Doc. 85-28605 Filed 11-29-85; 8:45 am]

BILLING CODE 3510-22-M

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Amendment of the Bilateral Agreement Concerning Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

November 27, 1985.

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 December 2, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce (202) 377-4212.

#### Background

The Governments of the United States and Thailand have agreed to further amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27, and August 8, 1983, as amended, and to extend it an additional year, through December 31, 1988.

That amendment establishes a new group covering wool fabric and apparel in Categories 410-459. The 1985 agreement year of the agreement as further amended and extended is being changed to the eleven-month period which began on January 1, 1985 and extended through November 30, 1985 for all cotton and man-made fiber apparel in Group II and all wool fabric and apparel in Group III. The 1985 agreement period for all non-apparel products remain unchanged. The next agreement period for Groups II and III will be the thirteen month period which begins on December 1, 1985 and extends through December 31, 1986. The two final agreement periods will be the twelve-month periods beginning on January 1, 1987 extending through December 31, 1987 and January 1, 1988 extending through December 31, 1988.

The newly amended and extended agreement establishes specific limits for the following categories and groups of categories during the indicated agreement periods:

Agreement Period (January 1, 1985- November 30, 1985)	Agreement Period (December 1, 1985-December 31, 1986)
Group II, Cotton, Wool and Man-Made Fiber Apparel Products 330-359, 431-459, and 630-659	Group II, Cotton and Man-Made Fiber Apparel Products 330-359 and 630-659
331	331
334/335	334/335
336/339	336
340	337
341	338/339
347/348	340
438	341
445/446	347/348
631	631
634/635	634/635
636	636
639	639
641	640
645/646	641
647/648	645/646
	647/648
	651
	Group III, Wool Apparel and Fabric
	410-429 and 431-459
	434
	436
	442
	445/446

Limits for Categories 336, 337, 434, 442 and 640 have been prorated to coincide with the applicable call dates and the end of the 1985 agreement year (November 30, 1985). The new levels are

listed in the attached letter to the U.S. Customs Service.

The foregoing eleven-month limits for Categories 334/335, 338/339, 340, 341, 347/348, 634/635, 641 and 645/646 have been reduced by the amounts of carry forward used during the agreement year which began on January 1, 1984 and extended through December 31, 1984. The December 1, 1985 through December 31, 1986 Group II limit for Categories 330-359 and 630-659, as a group has been reduced by 4,825,000 square yards equivalent according to the amendment of November 25, 1985. Further overshipment changes will be made to this Group II limit when more complete data are available on the full extent of the 1985 Group II overshipment.

Merchandise in Category 639, exported during the eleven-month period which began on January 1, 1985 and extends through November 30, 1985 which exceeded the limit for that period will be permitted entry for consumption, or withdrawal from warehouse for consumption, in the first five months of the thirteen-month agreement period in amounts not to exceed twenty percent per month of the thirteen-month base limit for that category. Imports in Category 639 allowed to enter under the staged entry procedures, that were exported in the eleven-month period which began on January 1, 1985 and extends through November 30, 1985, plus merchandise exported in the thirteen month period which begins on December 1, 1985 and extends through December 31, 1986 will not together be permitted to exceed the base limit established in the attached letter to the Commissioner of Customs.

A new limit of 3,250,000 square yards equivalent has been established for wool apparel and fabrics in Categories 410-429 and 431-459, as a group for the thirteen-month period which begins on December 1, 1985 and extends through December 31, 1986.

It was further agreed between the two governments that apparel of fibers, other than cotton, wool and man-made fibers, excluding silk, would be subject to the same provisions, as the current consultation provision of the bilateral agreement.

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), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical

Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
Department of the Treasury,  
Washington, DC 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended on November 25 and 1985, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 2, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories produced or manufactured in Thailand and exported during the periods indicated below, in excess of the indicated restraint limits:

Category	11-month restraint limit <sup>1</sup> Jan. 1, 1985-Nov. 30, 1985
330-359, 431-459 and 630-659, as a group	76,205,049 square yards equivalent.
331	451,891 dozen pairs.
334/335	55,528 dozen.
336 <sup>2</sup>	43,790 dozen.
337 <sup>3</sup>	60,428 dozen.
338/339	601,448 dozen.
340	106,076 dozen.
341	111,992 dozen.
347/348	189,473 dozen.
434 <sup>4</sup>	2,475 dozen.
438	18,042 dozen.
442 <sup>1</sup>	2,708 dozen.
445/446	14,027 dozen.
631	184,135 dozen pairs.
634/635	387,758 dozen.
636	134,377 dozen.
639	1,296,331 dozen.
640 <sup>5</sup>	290,000 dozen.
641	171,143 dozen.
645/646	76,345 dozen.
647/648	460,861 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after Dec. 31, 1984.

<sup>2</sup> The limit for Category 336 is for imports exported during the period which began on May 1, 1985 and extends through Nov. 30, 1985.

<sup>3</sup> The limit for Category 337 is for imports exported during the period which began on Mar. 29, 1985 and extends through Nov. 30, 1985.

<sup>4</sup> The limit for Category 434 is for imports exported during the period which began on Aug. 30, 1985 and extends through Nov. 30, 1985.

<sup>5</sup> The limit for Category 442 is for imports exported during the period which began on Sept. 30, 1985 and extends through Nov. 30, 1985.

<sup>6</sup> The limit for Category 640 is for imports exported during the period which began on May 1, 1985 and extends through Nov. 30, 1985.

In carrying out this directive cotton, wool and man-made fiber textile products in the immediately foregoing categories which have been exported to the United States on and after January 1, 1985 and extending through November 30, 1985 shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter for the thirteen-month period beginning on December 1, 1985 and extending through December 31, 1985. Wool fabrics in Categories 410-429 which have been exported before December 1, 1985 shall not be subject to this directive.

Category	13-mo restraint limit, Dec. 1, 1985 to Dec. 31, 1986 <sup>6</sup>
330-359 and 630-659, as a group	90,423,480 square yards equivalent.
331	563,631 dozen pairs.
334/335	73,818 dozen.
336	65,000 dozen.
337	70,417 dozen.
338/339	799,543 dozen.
340	141,013 dozen.
341	148,880 dozen.
347/348	251,877 dozen.
631	231,676 dozen pairs.
634/635	515,511 dozen.
636	167,504 dozen.
639	1,576,882 dozen.
640	297,917 dozen.
641	222,626 dozen.
645/646	101,490 dozen.
647/648	574,818 dozen.
651	34,125 dozen.
410-429, and 431-459, as a group	3,250,000 square yards equivalent.
434	8,120 dozen.
438	18,250 dozen.
442	14,625 dozen.
445/446	16,730 dozen.

You are also directed, effective on December 2, 1985, to permit entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber apparel products in Category 639, produced or manufactured in Thailand and exported during the specified eleven-month period noted below which were in excess of the limit established for that period:

Category	Amount to be entered per 30-day period	Previous restraint period
639	315,376 dozen	Jan. 1, 1985 to Nov. 30, 1985.

The thirty-day periods shall be as follows: December 2, 1985-December 31, 1985  
January 1, 1986-January 30, 1986  
January 31, 1986-March 1, 1986  
March 2, 1986-April 1, 1986  
April 2, 1986-May 1, 1986

The thirteen-month limits are subject to adjustment according to the terms of the

bilateral agreement of July 27 and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand, which provide, in part, that: (1) Under certain specified conditions certain apparel specific limits or sublimits may be exceeded by not more than 7 percent for cotton and man-made fiber and 1% for wool products, provided that the amount of the increase is compensated for by an equal square yards equivalent decrease in another specific limit in the same group; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

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 13396), June 28, 1984 (49 FR 26622), July 18, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-28892 Filed 11-29-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Proposed Additions and Deletion

Correction

In FR Doc. 85-27212 appearing on page 47245 in the issue of Friday, November 15, 1985, make the following correction:

In the third column, under *Commodities*, the third entry should read: "Cleaning Compound, Windshield, 6850-00-926-2275".

BILLING CODE 1505-01-M

**DEPARTMENT OF DEFENSE****Office of the Secretary****Defense Science Board Task Force on Semiconductor Dependency; Meeting**

**ACTION:** Change in Date of Advisory Committee Meeting Notice.

**SUMMARY:** The notice for the Defense Science Board Task Force on Semiconductor Dependency meeting on 16 December 1985 as published in the *Federal Register* (Vol. 50, No. 224, Wednesday, November 20, 1985, FR Doc. 85-27704) has been changed to 9 January 1986. In all other respects the original notice remains unchanged.

Patricia H. Means,  
OSD Federal Register Liaison Officer,  
Department of Defense.  
November 26, 1985.

[FR Doc. 85-28600 Filed 11-29-85; 8:45 am]

BILLING CODE 3810-01-M

**Department of the Air Force****Intent To Prepare an Environmental Impact Statement for the Over-the-Horizon Backscatter (OTH-B) Alaskan Radar System**

The Air Force intends to prepare an environmental impact statement on the proposal to construct and operate an over-the-horizon backscatter radar in Alaska. The proposed locations for the transmit and receive sites are in the southern interior of Alaska. Locations under evaluation are: Paxson, Glenallen, Chistochina, Cantwell, and Tok, Alaska. The proposed location for the operations center is at Elmendorf Air Force Base, Alaska. The radar will detect aircraft in a surveillance area from five hundred miles to eighteen hundred miles from the radar. The radar will provide azimuthal coverage from northwest to southwest Alaska. Detection and tracking information is needed to provide early warning of aircraft attack upon North America. The radar sites must be located on flat areas in the southern interior to achieve the desired coverage.

The complete Alaskan Radar System requires one transmitter site, one receiver site, and one operations center. The transmitter and receiver sites will each have two antennas placed on a parcel of land of approximately 1,000 acres. The distance between the transmitter and receiver sites cannot be closer than fifty miles, nor further away than 150 miles. The radar operates by refracting high frequency radio waves off the ionosphere to targets over the horizon. The reflected signal from the

target returns over the same path. The antenna for this radar is fixed, with the length of a single antenna being between four and nine thousand feet long. The system also requires buildings to support the operation and maintenance of the radar. New construction will include an operations center building of approximately 32,000 square feet and support facilities of approximately 13,000 square feet for the transmitter site and 6,000 square feet for the receiver site. Construction of a power plant may be required.

The Air Force plans to hold public scoping meetings in January 1986 in Anchorage and Fairbanks, Alaska, and other potentially affected locations. Announcement of the scoping meetings will be made through the local media by the Alaskan Air Command Public Affairs Office at Elmendorf AFB, Anchorage, AK. Persons and organizations who wish to provide information on the proposed action, or express concerns which may be analyzed in the environmental impact statement, should send their comments to the Over-The-Horizon Backscatter (OTH-B) Systems Program Office which is managing the deployment of the systems for the Air Force.

Persons requiring more information on the proposed action, and the environmental impact statement should contact: Hq Electronic Systems Division, OTH-B Systems Program Office, Attn: Colonel James A. Lee, Hanscom AFB, MA 01731.

Patsy J. Conner,  
Air Force Federal Register Liaison Officer.  
[FR Doc. 85-28546 Filed 11-29-85; 8:45 am]

BILLING CODE 3910-01-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. RP85-36-001]

**ANR Pipeline Co.; Tariff Filing**

November 25, 1985.

Take notice that on November 14, 1985, ANR Pipeline Company ("ANR") tendered for filing First Revised Sheet No. 570 under Rate Schedule X-64 of Original Volume No. 2 of its FERC Gas Tariff, proposed to become effective on January 1, 1985.

ANR states that the purpose for filing First Revised Sheet No. 570 is to reflect a reduced monthly charge under its Rate Schedule X-64 to High Island Offshore System ("HIOS"). Pursuant to the provisions of Article II of the Stipulation and Agreement at Docket No. RP85-36-

000 approved by the Federal Energy Regulatory Commission ("Commission") on June 18, 1985, ANR agreed to recalculate its cost of service underlying the monthly charge based on the final approved<sup>1</sup> depreciation rate in the HIOS rate proceeding at Docket No. RP85-37-000. On July 22, 1985, the Commission approved the HIOS Stipulation and Agreement. The reduced HIOS depreciation rate results in a decrease in ANR's monthly charge to HIOS from \$507,713 to \$407,748 under the terms of ANR's X-64 settlement agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426, in accordance with Rule 211 or Rule 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 3, 1985. 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 to the proceeding 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. 85-28576 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-4-000, 001]

**Granite State Gas Transmission, Inc.; Proposed Changes in Rates**

November 25, 1985.

Take notice that on November 15, 1985, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing with the Commission the following revised tariff sheets containing changes in rates in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2:

**First Revised Volume No. 1 and Proposed Effective Dates**

Twelfth Revised Sheet No. 7, October 18, 1985

<sup>1</sup> On August 21, 1985, HIOS filed an Application for Rehearing of the Commission's letter order dated July 22, 1985. On October 31, 1985, the Commission issued an Order Denying Rehearing. On November 12, 1985, HIOS filed a letter with the Commission in which it indicated that it would accept the Commission's orders of July 22, 1985 and October 31, 1985 at Docket No. RP85-37.

Thirteenth Revised Sheet No. 7,

November 1, 1985

Second Revised Sheet No. 7-A,

November 1, 1985

Fifth Revised Sheet No. 8, August 1, 1985

**Original Volume No. 2 and Proposed Effective Dates**

Fourth Revised Sheet No. 17, November 1, 1985

Fourth Revised Sheet No. 27, November 1, 1985.

According to Granite State the revised rates reflect changes in its cost of gas derived in accordance with the purchased gas cost adjustment provision in section XIX of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 and changes in the cost of certain transportation services and a storage service that Granite State is authorized to track pursuant to certificate orders issued by the Commission in *Granite State Gas Transmission, Inc., et al.*, 21 FERC ¶ 61,199 (1982) and *Boundary Gas, Inc., et al.*, 26 FERC ¶ 61,114 (1984).

Granite State states that in its regular purchased gas adjustment filing for effectiveness on July 1, 1985, it tracked the revised rates of its principal supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) and that the Tennessee rates which were tracked anticipated approval of a settlement in Docket Nos. RP80-97, *et al.*, that was later rejected by the Commission in Opinion No. 240. It is stated that Granite States' July 1, 1985 revised rates were accepted subject to refund and subject to the condition that it file revised rates effective July 1, 1985 reflecting any revisions in Tennessee's rates.

According to Granite State, the revised rates on Twelfth Revised Sheet No. 7 submitted with its filing reflect a reduction in its cost of gas resulting from the rates filed by Tennessee in Docket No. TA86-1-9-000 which the Commission permitted to become effective October 18, 1985 and reduced rates for its purchases from Consolidated Gas Transmission Corporation (Consolidated) accepted in Docket No. TA85-3-22-000. Granite State proposes to make the revised rates on Twelfth Revised Sheet No. 7 effective October 18, 1985 and requests waiver of conditions accepting its July 1, 1985 purchased gas adjustment filing to restate its rates retroactively to that date.

Granite State states that the revised rates on Thirteenth Revised Sheet No. 7 track changes in its cost of gas purchased from Boundary Gas, Inc. and Tennessee, effective November 1, 1985. According to Granite State, the

Boundary Gas two-part rate for its purchases is adjusted seasonally on November 1st and July 1st and that Tennessee filed revised reduced rates on November 8, 1985, pursuant to a settlement in Docket No. RP82-125, reflecting the effect of the Commission's Opinion No. 240. Granite State also states that Thirteenth Revised Sheet No. 7 reflects an adjustment in transportation rates charged by Texas Eastern Transmission Corporation and Algonquin Gas Transmission Company for delivery of purchases from Consolidated that Granite State was authorized to track in the certificate order in *Boundary Gas, Inc., et al., supra.*

Granite State further states that it is authorized to render storage services under its Rate Schedule S-1 and storage related transportation services under its Rate Schedules T-2 and T-3. According to Granite State, the reduced rate for storage services under Rate Schedule S-1 on Fifth Revised Sheet No. 8 reflect reduced rates charged by Penn-York Energy Corporation (Penn-York) as a result of a settlement in Docket No. RP85-59-000. The revised rates on Fourth Revised Sheet Nos. 17 and 27 reflect the charges to Granite State for a storage-related transportation service rendered for its account by Tennessee under Rate Schedule T-130 and which Tennessee filed on November 8, 1985. Granite State states it is authorized to track changes in the Penn-York storage rate and Tennessee's transportation rates pursuant to the certificate issued in *Granite State Gas Transmission, Inc., et al.*, 21 FERC ¶ 61,199 (1982).

It is stated that the rate changes submitted with the filing are applicable to wholesale sales, storage services and transportation services rendered for its two affiliated customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). Granite State states the effect of the revised rates submitted in its filing is a reduction of \$2,442,296 annually in the services rendered to Bay State and \$1,334,359 in the services rendered to Northern Utilities.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests

should be filed on or before December 3, 1985. 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. 85-28577 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-25-000, 001]

**Mississippi River Transmission Corp.; Rate Change Filing**

November 25, 1985.

Take notice that on November 18, 1985, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Thirteenth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of November 1, 1985 is proposed.

Mississippi states that the purpose of the instant filing is to more accurately reflect Mississippi's reduced cost of purchased gas, including the result of two rate change filings of Mississippi's principal pipeline supplier, United Gas Pipe Line Company.

The impact of the instant filing on Mississippi's Rate Schedule CD-1 is a decrease of \$.270 per Mcf in Demand Charge D-1, an increase of \$.1581 per Mcf in the D-2 Demand Charge, and a decrease in the commodity rate of \$.2550 per Mcf. The single part rate under Rate Schedule SGS-1 reflects a decrease of \$.1230 per Mcf. The combined impact of the rate changes is an approximate \$14.6 million annual reduction in gas costs to Mississippi's jurisdictional customers below the cost of gas included in current rates.

Mississippi requests waiver of the Notice requirements of section 154.22 of the Commission's regulations, the provisions of section 17.11 of its FERC Gas Tariff, Second Revision Volume No. 1, and such other Rules or Regulations of the Commission in order that Thirteenth Revised Sheet No. 4 may become effective November 1, 1985 as proposed.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

DC 20426, in accordance with §§ 385.211 and 385.214 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 3, 1985. 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. 85-28578 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-20-000]

### Northwest Alaskan Pipeline Co.; Tariff Changes

November 25, 1985.

Take notice that on November 15, 1985, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84108-0900, tendered for filing in Docket No. RP86-20, Seventeenth Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that it is submitting Seventeenth Revised Sheet No. 5 reflecting a decrease in demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to three of its four U.S. purchasers, Northern Natural Gas Company, a Division of Internorth Inc. ("Northern"), Panhandle Eastern Pipe Line Company ("Panhandle"), and Pacific Interstate Transmission Company ("PIT") under Rate Schedules X-1, X-2, and X-4, respectively. The demand charge for Northwest Alaskan's fourth U.S. purchaser, United Gas Pipe Line Company ("United"), as reflected in Rate Schedule X-3, increases due to a reduction in the current demand charge offset by a smaller demand charge adjustment credit than in the July-December 1985 period.

Northwest Alaskan states that it is submitting Seventeenth Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Northern, Panhandle, United and PIT, and pursuant to Rate Schedules X-1, X-2, X-3, and X-4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (January 1, 1986 through June 30, 1986) the demand charges and

demand charge adjustments which Northwest Alaskan will charge during that period.

Northwest Alaskan requested that Seventeenth Revised Sheet No. 5 become effective January 1, 1986.

Northwest Alaskan states that a copy of this filing is being served on Northwest Alaskan's 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, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before 12-3, 1985. 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. 85-28579 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-28-000, 001]

### Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 25, 1985.

Take notice that on November 19, 1985 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

**FERC Gas Tariff, Original Volume No. 1**  
Fifty-Fourth Revised Sheet No. 3-A  
Thirty-First Revised Sheet No. 3-B  
Fifth Revised Sheet No. 3-C  
Fourth Revised Sheet No. 3-D

**FERC Gas Tariff, Original Volume No. 2**  
Second Revised Sheet No. 2731  
First Revised Sheet No. 2827  
First Revised Sheet No. 2850  
First Revised Sheet No. 2873

An effective date of January 1, 1986 is proposed.

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 243 issued September 26, 1985 in Docket No. RP85-154-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1,

1986. This adjustment will permit the collection of 13.5 mills per Mcf (13.6 mills when adjusted to Panhandle's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 3, 1985. 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 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. 85-28581 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-189-000 et al.]

### Synergics, Inc.; Applications for Commission Certification of Qualifying Status of Cogeneration Facilities

November 25, 1985.

On November 1, 1985, Synergics, Inc. (Applicant), of 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403, submitted for filing 29 applications for certification of facilities as qualifying cogeneration facilities pursuant to § 292.207 of the Commission's regulations. No determination has been made that any of the submittals constitutes a complete filing.

The docket numbers, locations, primary energy sources, and electric power production capacities of the 29 topping-cycle cogeneration facilities are listed below. Each facility will consist of one or two 60 kilowatt spark ignition engine-generator units with related auxiliary equipment. The useful thermal output for the facilities will be in the form of hot water.

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, DC

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.*

1986. This adjustment will permit the collection of 13.5 mills per Mcf (13.1 mills when adjusted to Trunkline's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 3, 1985. 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. 85-28582 Filed 11-29-85; 8:45 am]  
BILLING CODE 8717-01-M

**[Docket No. RP86-18-000]**

**Valley Gas Transmission, Inc.; for Authority To Use Direct Billing Procedure for Retroactive Production-Related Costs**

November 25, 1985.

Take notice that on November 15, 1985, Valley Gas Transmission, Inc. ("Valley") filed a petition for authority to institute a direct billing procedure for collection of retroactive production-related costs for the production period July 25, 1980 through November 1, 1985. As more fully explained in the petition, Valley proposes to allocate such costs based on each customer's (or former customer's) share of Valley's total sales during each month of the retroactive period. Valley proposes to bill its customers directly for the retroactive costs on a lump-sum basis.

Valley states that such authorization would be reasonable and equitable and would avoid incorrect market signals that would otherwise result from Valley's recovering production-related costs through its purchased gas adjustment (PGA) filings. Valley requests any waiver of Commission regulations necessary to effect the proposed direct billing procedure, and

Docket No.	Location	Primary energy source	Electric power production capacity
QF86-186-000	Pascack Valley Hospital, Westwood, NJ	Natural gas	60 kW
QF86-189-000	Cheltenham Nursing and Rehabilitation Center, Philadelphia, PA	do	60 kW
QF86-190-000	Hamilton Arms Nursing and Rehabilitation Center, Lancaster, PA	do	60 kW
QF86-191-000	Mayo Nursing and Convalescent Center, Philadelphia, PA	do	60 kW
QF86-192-000	Crestview Convalescent Center, Wyncote, PA	do	60 kW
QF86-193-000	Crestview North Nursing and Rehabilitation Center, Langhorne, PA	do	60 kW
QF86-194-000	Bishop McCarthy Residence Nursing Home, Vineland, NJ	do	60 kW
QF86-195-000	Care Pavilion of Walnut Park, Philadelphia, PA	do	120 kW
QF86-196-000	Cheltenham/York Road Nursing and Rehabilitation Center, Philadelphia, PA	do	60 kW
QF86-197-000	Cobbs Creek Nursing Center, Philadelphia, PA	do	60 kW
QF86-198-000	Laurelview Manor, Mount Laurel, NJ	do	60 kW
QF86-199-000	Copper River Convalescent Center, Pennsauken, NJ	do	60 kW
QF86-200-000	Melford Leas Life Care Facility, Melford, NJ	do	60 kW
QF86-201-000	Silver Stream Nursing and Rehabilitation Center, Spring House, PA	do	60 kW
QF86-202-000	Rittenhouse Care Center, Philadelphia, PA	do	60 kW
QF86-203-000	Prospect Park Nursing Center, Prospect Park, PA	do	60 kW
QF86-204-000	Golden Crest Nursing Home, Atlantic City, NJ	do	60 kW
QF86-205-000	Bridgeton Nursing Home, Bridgeton, NJ	do	60 kW
QF86-206-000	Darcey Hall Nursing Home, West Palm Beach, FL	do	60 kW
QF86-207-000	Burlington Woods Convalescent Center, Burlington, NJ	do	60 kW
QF86-208-000	Mt. Laurel Convalescent Center, Mount Laurel, NJ	do	60 kW
QF86-209-000	Care Inn of Lopatcong, Phillipsburg, NJ	do	60 kW
QF86-210-000	Christian Health Care Center, Wyckoff, NJ	do	60 kW
QF86-211-000	Greenbriar Nursing Center of Hammonton, Hammonton, NJ	do	60 kW
QF86-212-000	West Chester Arms Nursing and Rehabilitation Center, West Chester, PA	do	60 kW
QF86-213-000	Greenbriar Nursing and Convalescent Center, Woodbury, NJ	do	60 kW
QF86-214-000	Greenbriar East Nursing Center, Deptford, NJ	do	60 kW
QF86-215-000	Centennial Spring Convalescent Center, Warminster, PA	Natural gas or LP gas	60 kW
QF86-216-000	Our Lady's Residence Nursing Home, Pleasantville, NJ	Natural gas	60 kW

[FR Doc. 85-28575 Filed 11-29-85; 8:45 am]

BILLING CODE 8717-01-M

**[Docket No. TA86-1-30-000, 001]**

**Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff**

November 25, 1985.

Take notice that on November 15, 1985 Trunkline Gas Company (Trunkline) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2:

**FERC Gas Tariff, Original Volume No. 1**

Forty-Eighth Revised Sheet No. 3-A  
Sixth Revised Sheet No. 3-A.1

**Seventh Revised Sheet No. 3-A.2**

**FERC Gas Tariff, Original Volume No. 2**

Second Revised Sheet No. 3725

Second Revised Sheet No. 3747

First Revised Sheet No. 3881

First Revised Sheet No. 3920

First Revised Sheet No. 3989

An effective date of January 1, 1986 is proposed.

Trunkline states that such filing reflects a rate adjustment pursuant to Opinion No. 243 issued September 26, 1985 in Docket No. RP85-154-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Trunkline, may file a general R&D cost adjustment to be effective January 1,

states that it has served its petition in this docket on all affected current or former customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of practice and Procedure (18 CFR §§ 385.211 and 385.214). All such motions or protests should be filed on or before December 3, 1985. 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 the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 85-28580 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-85-000 et al.]

#### ANR Pipeline Co. et al.; Natural Gas Certificate Filings

November 22, 1985.

Take notice that the following filings have been made with the Commission:

##### 1. ANR Pipeline Company

[Docket No. CP86-85-000]

Take notice that on October 30, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP86-85-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR to provide transportation services on behalf of its distribution utility customers (LDC) and end-users served by the LDCs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR has been advised by its LDCs (other than Michigan Consolidated Gas Company) that they desire ANR to provide a limited-term, best-efforts, interruptible transportation service for them for natural gas which they may acquire from sellers of natural gas other than ANR. Accordingly, ANR requests a limited-term certificate of public convenience and necessity authorizing ANR to transport for each of its LDCs requesting such transportation service, during the period, November 1, 1985, through October 31, 1986, up to five percent of each LDC's annual contract

quantity. ANR also requests authorization during the same term to provide transportation services on behalf of the end-users served by the LDCs. It is explained that the transportation services undertaken by ANR would be performed provided ANR has capacity sufficient to perform the service without detriment or disadvantage to its firm sales and transportation requirements and would otherwise be able to perform such service without detriment or disadvantage.

For the transportation service for the LDCs, ANR proposes to charge a rate of 74.59 cents per dt equivalent of gas transported, and for end-users ANR proposes to charge a rate of either 74.59 cents per dt equivalent transported or 3.6 cents per 100 miles of haul, whichever is appropriate.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

##### 2. ANR Pipeline Company, Funk Exploration, Inc.

[Docket No. CP86-13-000, Docket No. CI86-10-000]

Take notice that on October 4, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Funk Exploration, Inc. (Funk), 210 West Park Avenue, Suite 1000, Oklahoma City, Oklahoma 73102 (Applicants), filed a joint application in Docket Nos. CP86-13-000 and CI86-10-000, respectively, for certificates of public convenience and necessity authorizing ANR and Funk to engage in a transportation and deferred exchange of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants propose that ANR provide transportation service on behalf of Funk and engage in a deferred exchange of natural gas with Funk pursuant to the March 11, 1985, transportation and deferred exchange agreement. Applicants state that the agreement provides that ANR would undertake these services to assist Funk in effectuating its sale of natural gas to Gulf States Utilities (GSU). ANR proposes, on receipt of appropriate authority, to take receipt of up to 20,000 Mcf of gas per day at the existing interconnection of the pipeline facilities of ANR and Funk in Texas County, Oklahoma. ANR would then transport and deliver the gas, adjusted for fuel, to either Texas Eastern Transmission Corporation (Texas Eastern) for GSU's account and/or GSU via Acadian Gas Pipeline (Acadian). It is indicated that ANR's system interconnects with that of

Texas Eastern in St. Landry Parish, Louisiana, and with GSU via Acadian in Franklin Parish, Louisiana.

In addition to the transportation service, ANR and Funk propose a deferred exchange service which provides for ANR to make available to Funk up to 4,500,000 Mcf of natural gas during the summer period for delivery to Texas Eastern and/or GSU via Acadian on a daily basis of up to 30,000 Mcf for GSU's use between May 15 and October 15 each year. Applicants indicate that the exchanged volumes would be redelivered to ANR during the winter period (October 15 to May 15) by Funk's tendering up to 30,000 Mcf per day at the Texas County, Oklahoma, point of receipt. Applicants state that the term of the proposed service is from the date of Commission authorization until May 15, 1984.

As consideration for the service, Funk indicates it would pay ANR a demand charge of \$6.10 per Mcf transported and a commodity charge of two cents per Mcf of exchange gas delivered by ANR to Texas Eastern and/or GSU via Acadian.

Comment date: December 13, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

##### 3. Columbia Gulf Transmission Company

[Docket No. CP86-72-000]

Take notice that on October 25, 1985, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP86-72-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Glidden C & R, Division of SCM Corporation (Glidden), under the certificate issued in Docket No. CP83-496-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gulf proposes to transport up to 500 million equivalent of natural gas per day for Glidden's Huron, Ohio, plant through the later of any extension of the existing authority to transport under § 157.205 of the Commission Regulations, and/or in the event Columbia Gulf files a statement of notification pursuant to new § 284.223(g) of the Commission's Regulations, such period of time as may be established by the Commission in any final rule issued in Docket No. RM85-1-000, up to the end of the term of the transportation



agreement. Columbia Gulf states that the gas to be transported would be purchased by Glidden from Hadson Gas Systems, Inc. (Hadson), and would be used as boiler fuel in Glidden's Huron, Ohio, plant.

It is indicated that Glidden has made arrangements to purchase this gas from Hadson. Columbia Gulf would redeliver the gas to Columbia Gas Transmission Corporation for redelivery to Columbia Gas of Ohio, Inc., the distribution company serving Glidden, near Huron, Ohio.

Columbia Gulf states that it would charge one of the rates in its Rate Schedule T-2 for its transportation service: offshore to Kentucky—23.92 cents per dt equivalent of gas and retain 1.69 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas; lateral onshore to Kentucky—14.28 cents per dt equivalent of gas and retain 1.50 percent; Rayne, Louisiana, to Kentucky—12.76 cents per dt equivalent of gas and retain 1.50 percent; and Corinth, Mississippi, to Kentucky—6.38 cents per dt equivalent of gas and retain 0.75 percent.

Comment date: January 6, 1986, in accordance with Standard Paragraph G at the end of this notice.

#### 4. The Inland Gas Company, Inc.

[Docket No. CP86-155-000]

Take notice that on November 1, 1985, The Inland Gas Company, Inc. (Applicant), 340—17th Street, Ashland, Kentucky 41101, filed in Docket No. CP86-155-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain facilities, with no abandonment of service, under the authorization issued in Docket No. CP83-139-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes to abandon a total of 10.5 miles of 4-inch, 6-inch, 8-inch, and 10-inch pipeline, as well as points of delivery to four existing direct sale customers, and certain related measuring and regulating facilities, all located in Wayne and Cabell Counties, West Virginia. Applicant states that approximately 9.8 miles of the 10.5 miles of pipeline would be abandoned by way of sale to Industrial Gas Corporation (Industrial), an intrastate pipeline company. It is stated that Industrial would utilize certain segments of the acquired pipeline in conjunction with its own existing pipeline system to continue service to Applicant's customers,

namely, A.C.F. Industries, Inc., and three right-of-way consumers. It is further stated that Industrial has agreed to purchase the 4-inch, 8-inch and 10-inch section of pipeline and related facilities for \$60,000. The remaining 0.7 mile of 6-inch, 8-inch and 10-inch pipeline located in Wayne County would be abandoned in place, Applicant states.

Comment date: January 6, 1986, in accordance with Standard Paragraph G at the end of this notice.

#### 5. K N Energy, Inc.

[Docket No. CP 85-200-001]

Take notice that on November 12, 1985, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-200-001 an amendment to its pending application filed on December 31, 1984, in Docket No. CP85-200-000 pursuant to section 7(c) of the Natural Gas Act to reflect the elimination of Applicant's request for authority to construct and operate all the proposed facilities except for the 15.4 miles of 4-inch pipeline from near Oakley, Kansas, to Grinnell, Kansas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In Docket No. CP85-200-000, Applicant proposed: (1) To construct and operate approximately 48.5 miles of 16-inch pipeline to loop a portion of its existing 16-inch system in Wyoming, (2) to construct and operate approximately 118 miles of new 16-inch pipeline from Applicant's existing Big Springs compressor station near Big Springs, Nebraska, to a proposed interconnection on its 12-inch pipeline located east of Atwood, Kansas, (3) to abandon by relocation its existing Cobby, Kansas, compressor station consisting of 2040 horsepower to a location near Atwood, Kansas, (4) to install 900 horsepower of additional, new compression at the proposed Atwood compressor station, (5) to make certain other facility modifications at the Big Springs and Scott City compressor stations, and (6) to construct and operate approximately 15.4 miles of 4-inch pipeline from near Oakley, Kansas, to Grinnell, Kansas. Applicant estimated that the cost to construct the above facilities would have been \$28,500,000. Applicant stated in Docket No. CP85-200-000 that an immediate need for the increased capacity was to transport additional volumes of gas under an existing arrangement with Panhandle Eastern Pipe Line Company (Panhandle).<sup>1</sup>

<sup>1</sup> See Commission order dated June 19, 1970, in Panhandle's Docket No. CP70-243 and Kansas-Nebraska Natural Gas Company's Docket No. CP70-249 (43 FPC 925).

Applicant further stated in the original filing that the proposed construction was a continuation of Applicant's efforts to increase west-end capacity in order to offset anticipated declines of gas supplies on the south-end of its system. The increased capacity would have enabled Applicant to make new sales to new and non-traditional customers, it was further stated in Docket No. CP85-200-000.

Applicant and Panhandle have subsequently engaged in negotiations concerning Applicant's obligations to accept Panhandle's gas near Douglas, Wyoming, it is asserted. As a result of these negotiations, the parties amended the 1970 agreement limiting Applicant's obligations to receive gas near Douglas, Wyoming, and eliminating the immediate need for most of the proposed facilities, it is asserted.<sup>2</sup>

Applicant now requests in Docket No. CP85-200-001 to eliminate the request for authorization to construct and operate all the proposed facilities except for the 15.4 miles of 4-inch pipeline from near Oakley, Kansas to Grinnell, Kansas. The estimated cost to construct these facilities is \$600,000. Applicant states that these facilities are required on a basis separate from that supporting the other proposed facilities. Applicant asserts that the proposed 15-mile pipeline is required in order to operate its Palco compressor station more efficiently and to improve reliability of service to high-priority customers connected to the existing Grinnell lateral.

Comment date: December 6, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

#### 6. K N Energy, Inc.

[Docket No. CP86-160-000]

Take notice that on November 1, 1985, K N Energy, Inc. (KNE), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP86-160-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate certain sales taps for the delivery of gas to various end users under KNE's blanket certificate issued in Docket No. CP83-140-000, as amended, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

KNE proposes the construction and operation of sales taps to various

<sup>2</sup> Applicant states that it would file for modification of the June 19, 1970, Commission order in Docket Nos. CP70-243 and CP70-249.

domestic end users from its system facilities as follows:

Customer	Location of tap	Approximate quantity to be sold (Mcf)	Estimated of cost facilities
Heritage Hall	Rooks Co., KS	600	\$850
Wesley C. Nelson	Wichita Co., KS	120	850
Lakeview Corporation	Dawson Co., NE	120	850
Kenneth S. Kowalski	Sherman Co., NE	120	850
Daniel E. Smith	Converse Co., WY	120	850

KNE states the gas would be consumed by the above end users and that the sales taps are not prohibited by any of its existing gas tariffs. KNE asserts the addition of the new sales taps would have no significant impact on peak day or annual deliveries and that the gas would be priced in accordance with currently filed rate schedules authorized by state and local jurisdictions.

Comment date: January 6, 1986, in accordance with Standard Paragraph G at the end of this notice.

#### 7. National Fuel Gas Supply Corporation

[Docket No. CP86-185-000]

Take notice that on November 1, 1985, National Fuel Gas Supply Corporation (National), Ten LaFayette Square, Buffalo, New York 14203, filed in Docket No. CP86-185-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a point of delivery to its affiliate, National Fuel Gas Distribution Corporation (Distribution), under the certificate issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

National proposes to construct a sales tap facility in Wayne Township, Erie County, Pennsylvania and deliver up to 2.4 Mcf of gas per day to Distribution as a feed for a new residential customer. The sale is subject to the terms and conditions of National's Rate Schedule RQ. National states that the proposed deliveries would have minimal impact on its peak day and annual deliveries.

Comment date: January 6, 1986, in accordance with Standard Paragraph G at the end of this notice.

#### 8. Natural Gas Pipeline Company of America

[Docket No. CP86-83-000]

Take notice that on October 29, 1985, Natural Gas Pipeline Company of America (Applicant) 701 East Twenty Second Street, Lombard, Illinois 60148, filed in Docket No. CP86-83-000 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 an interruptible basis for the account of Bethlehem Steel Corporation (Bethlehem Steel), a new customer and end-user and for permission and approval to abandon such service on September 1, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Bethlehem Steel has requested that Applicant transport up to 25 billion Btu of gas per day from the delivery points at Mills County, Iowa, and Will County, Illinois, where the subject quantities of natural gas would be delivered by Midwestern Gas Transmission Company and ANR Pipeline Company, respectively, for deliveries to Indiana Public Service Company (NIPSCO), on the border between Cook County, Illinois, and Lake County, Indiana. From there, NIPSCO would deliver the gas to Bethlehem Steel and its plant in Burns Harbor, Indiana.

It is further alleged that the term of the proposed transportation service would continue until September 1, 1986, which is two years from the date deliveries commenced pursuant to authorization granted in Docket No. CP85-44-000 under § 157.209(e), or a prior date on which the parties mutually agree.

Applicant states that the proposed charges for the non-gas cost component of its Rate Schedule DMQ-1 commodity rate for gas transported would change whenever the non-gas component changes. Applicant states further that it would also charge Bethlehem Steel for full consumed and unaccounted-for gas attributable to the proposed transportation service.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

#### 9. Natural Gas Pipeline Company of America

[Docket No. CP86-133-000]

Take notice that on November 1, 1985, Natural Gas Pipeline Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86-133-000 an application

pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 50 billion Btu equivalent of natural gas per day on an interruptible basis for United States Steel Corporation (U.S. Steel) and for permission and approval to abandon such service on July 18, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

NGPL proposes to transport the above volumes pursuant to a limited-term gas transportation agreement, dated July 15, 1985, among U.S. Steel, TXO Production Company and NGPL which provides that NGPL would receive the gas from Delhi Gas Pipeline Corporation (Delhi) at the inlet of NGPL's compressor station 340 near Goodrich in Polk County, Texas, and would redeliver thermally equivalent volumes, less 0.5 percent for gas lost and unaccounted for, to Columbia Gulf Transmission Company at an existing interconnection near Erath, Vermilion Parish, Louisiana. The gas would be further transported to U.S. Steel's Lorain and Haverhill, Ohio plants by Columbia Gas Transmission Corporation and Columbia Gas of Ohio, Inc., it is stated.

NGPL states that the gas would be used as fuel in the production of steel in reheat furnaces, blast furnaces, steam boilers, process feed heaters and for plant heating.

NGPL states that it would charge a transportation rate of 8.8 cents per million Btu equivalent of gas received which rate is based on its onshore cost per 100 miles as set forth on Tariff Sheet No. 5A of NGPL's FERC Gas Tariff Volume No. 1. NGPL also requests that permission and approval to abandon the above service be pre-granted upon expiration of the term of the agreement, i.e., July 18, 1986. Further, NGPL requests authorization to add receipt points in the future necessary to support this transportation service and states that it would make annual tariff filings to reflect such additions. For services to be provided by intrastate pipelines related to the above service, NGPL requests, on behalf of said pipelines, to the extent necessary, a waiver of the limitations of § 284.122(b) of the Commission's Regulations.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

#### 10. Natural Gas Pipeline Company of America

[Docket No. CP86-134-000]

Take notice that on November 1, 1985, Natural Gas Pipeline Company of

America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86-134-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis of up to a maximum of 25 billion Btu of natural gas per day for Bethlehem Steel Corporation (Bethlehem) and for permission and approval to abandon such service on August 31, 1986, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests authority to provide an interruptible transportation service for Bethlehem from the date certificate authority acceptable to Applicant is received through August 31, 1986. Applicant indicates it would provide such service pursuant to the terms and conditions contained in the gas transportation agreement, dated August 31, 1984, between Applicant and Bethlehem.

Applicant proposes to receive natural gas for the account of Bethlehem at: (1) The existing point of interconnection between the facilities of Applicant and Oklahoma Natural Gas Company (ONG) in Custer County, Oklahoma; (2) the existing point of interconnection between the facilities of Applicant and ONG in Woodward County, Oklahoma; (3) the existing point of interconnection between the facilities of Applicant and Kaiser Francis Oil Company in Woodward County, Oklahoma; (4) the existing point of interconnection between the facilities of Applicant and Mustang Fuel Corporation in Washita County, Oklahoma; (5) the existing point of interconnection between the facilities of Applicant and ANR Pipeline Company (ANR) in Will County, Illinois; (6) the existing point of interconnection between the facilities of Applicant and ANR in Beaver County, Oklahoma; and (7) the existing point of interconnection between the facilities of Applicant and M.V. Pipeline Company in Caddo County, Oklahoma. Applicant states that redelivery for the account of Bethlehem would occur at the existing point of interconnection between the facilities of Applicant and Northern Indiana Public Service Company in Cook County, Illinois, for use in Bethlehem's Burns Harbor, Indiana, plant. Applicant also requests authorization to add additional receipt points in the future that may be necessary to support this service.

Applicant proposes to charge Bethlehem transportation rates as follows:

Receipt point	Transportation fee to Cook Co., IL (cents per million Btu)
Will Co., IL	22.51
Beaver Co., OK	28.6
Washita Co., OK	28.2
Caddo Co., OK	27.9
Woodward Co., OK	27.2
Custer Co., OK	27.2

In addition, Applicant states it would charge Bethlehem for fuel used and lost and unaccounted for gas under the agreement. It is stated that this charge would be based on the percentage of fuel utilized in performing the proposed transportation and the weighted average cost of gas contained in the Applicant's currently effective purchased gas adjustment. Applicant also proposes to charge Bethlehem the currently effective Gas Research Institute (GRI) surcharge as set forth on Sheet No. 5A of Applicant's FERC Gas Tariff, Volume No. 1. For illustrative purposes, Applicant indicates the currently effective GRI surcharge is 1.21 cents per million Btu.

Applicant indicates that it provided similar service commencing on September 1, 1984, pursuant to § 157.209(e)(1) of the Commission's Regulations which terminated on October 31, 1985, because of the expiration of Order No. 234-B on that day.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

#### 11. Northwest Pipeline Corporation

[Docket No. CP86-166-000]

Take notice that on November 1, 1985, Northwest Pipeline Corporation (Northwest), 295 Chipea Way, Salt Lake City, Utah 84108, filed in Docket No. CP86-166-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for the account of J.R. Simplot Company (Simplot), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to provide an interruptible transportation service for up to 30 billion Btu of natural gas per day for the account of Simplot pursuant to a gas transportation agreement dated October 30, 1985. Northwest requests pregranted abandonment authority effective two years from the date of initial transportation. Northwest also requests blanket authority to add and delete receipt points under the transportation agreement.

It is stated that Simplot has acquired, or intends to acquire, supplies of natural gas for its own use which it would cause to be delivered to Northwest for transportation at the receipt points listed on Exhibit A to the transportation agreement. Northwest states that these receipt points include Northwest's existing interconnections with Colorado Interstate Gas Company in Sweetwater County, Wyoming; with Mountain Fuel Resources, Inc., in Sweetwater County, Wyoming and Uintah County, Utah; with Utah Gas Service Company near Jensen, Utah; with Pacific Gas Transmission Company near Spokane, Washington; and with Westcoast Transmission Company Limited at the Canadian border near Sumas, Washington. Northwest also indicates that an additional receipt point is located at the Papoose Canyon delivery point into Northwest's transmission facilities in Dolores County, Colorado.

It is then said that under the transportation agreement, Northwest proposes to accept up to 30 billion Btu of gas per day for Simplot's account at the agreed upon receipt points and to transport and redeliver thermally equivalent volumes for Simplot's account to either Intermountain Gas (Intermountain) or Cascade Natural Gas Company (Cascade) at the existing delivery points listed on Exhibit B to the transportation agreement.

Finally, Northwest indicates that Intermountain and Cascade would utilize their respective existing distribution facilities to transport and deliver the subject gas from Northwest's delivery points to Simplot's fertilizer plant at Pocatello, Idaho, and potato processing plants at Hermiston, Oregon, and at Conda, Aberdeen, Heyburn and Caldwell, Idaho. It is indicated that Simplot would use the subject gas as process fuel and feedstock in the manufacture of anhydrous ammonia at its Pocatello fertilizer plant and as boiler fuel at its various potato processing plants.

Northwest states that for all volumes of gas transported by Northwest under the transportation agreement, Northwest proposes to charge Simplot at either the incremental or replacement on-system transportation rate, as applicable, including fuel reimbursement and GRI adjustment, as set forth in Northwest's FERC Gas Tariff, Volume No. 2, Sheets 2.2 and 2.3. Northwest states that the currently effective rates are 20.0 cents per million Btu for incremental transportation or 37.97 cents per million Btu for replacement transportation, 1.18 cents per million Btu for the GRI adjustment, and a monthly fuel

reimbursement charge equal to 1.1 percent of the transportation receipt volumes times Northwest's average purchased gas cost for the month. Northwest also indicates that for replacement transportation, the tariff provides two other rate components which may be applicable: a 24.0 cents per million Btu charge to reimburse Northwest for carrying costs on increased take-or-pay incurred as a result of displacing sales and a credit of 30.91 cents per million Btu against the transportation charge for any of the subject volumes gathered by Northwest.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

## 12. Northwest Pipeline Corporation

[Docket No. CP86-170-000]

Take notice that on November 1, 1985, Northwest Pipeline Corporation (Northwest), 295 Chipea Way, Salt Lake City, Utah 84108, filed in Docket No. CP86-170-000 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for the account of CP National Corporation (CP National), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to provide an interruptible transportation service for the account of CP National, for a term of two years, pursuant to a gas transportation agreement (transportation agreement), dated October 31, 1985. Northwest also requests blanket authority to add and delete receipt points under the transportation agreement.

It is said that CP National has acquired or may yet acquire certain supplies of natural gas from Northwest Field Services Company which have been released from gas purchase contracts between various producers and Northwest. Northwest states that it has agreed to gather such gas, for CP National's account, from the wellheads to points on Northwest's transmission system pursuant to a non-jurisdictional gas gathering agreement dated October 31, 1985.

It is further stated that under the transportation agreement, Northwest proposes to accept natural gas for CP National's account at the agreed upon transmission line receipt points. The initial receipt point is located at the junction of Northwest's North Douglas Creek gathering system and Northwest's transmission system in Rio Blanco County, Colorado. It is explained that

Northwest would then transport and redeliver thermally equivalent volumes, less transportation fuel, to CP National at the existing Myrtle Creek/Riddle meter station delivery point located in Douglas County, Oregon.

It is stated that CP National then would utilize its existing distribution facilities to sell and deliver the subject gas to one of its industrial customers, Hanna Nickel Smelting Company (Hanna). Northwest states that Hanna would use the subject gas as fuel to operate the calciners at its nickel smelting plant in Riddle, Oregon.

It is also stated that the maximum annual volume which can be transported under the transportation agreement is 667.201 MMBtu's, 10 percent of CP National's test period volume in Docket No. RP85-13-000. It is estimated that daily deliveries hereunder will average about 2.2 billion Btu's.

For all volumes of gas transported by Northwest under the transportation agreement, Northwest proposes to charge CP National at the replacement on-system transportation rate as set forth in its FERC Gas Tariff. The currently effective base rate, as set forth on Sheets 2.2 and 2.3 of Northwest's FERC Gas Tariff, Volume No. 2, is 39.97 cents per million Btu, plus a GRI adjustment of 1.18 cents per million Btu. However, it is indicated that in accordance with the referenced tariff sheets, CP National would receive a credit of 30.91 cents per million Btu against this transportation rate because CP National would be paying Northwest for gathering the subject gas.

Comment date: December 13, 1986, in accordance with Standard Paragraph F at the end of this notice.

## 13. Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.

[Docket No. CP83-175-006]

Take notice that on October 25, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-175-006 a petition to amend the order issued August 12, 1983, in Docket No. CP83-175-000, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize a reduction in the quantity of natural gas transported for the account of United Gas Pipe Line Company (United), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated August 29, 1980, Tennessee currently transports

up to 2,500 Mcf of natural gas per day for the account of United on a best efforts basis. Tennessee states that it receives such gas at an existing point of interconnection between Tennessee and United in East Cameron Block 97, offshore Louisiana, and redelivers such gas to United at an existing point of interconnection in Ouachita Parish, Louisiana.

Tennessee proposes herein to reduce the currently authorized transportation quantity to 750 Mcf per day, pursuant to a September 19, 1985, amendment to the transportation agreement between Tennessee and United. Tennessee requests that the proposed reduction in transportation quantity be effective January 1, 1985. Tennessee states that no other changes in the transportation service are proposed herein.

Comment date: December 13, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

## 14. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP84-478-001]

Take notice that on October 25, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-478-001 a petition to amend the order issued November 13, 1984, in Docket No. CP84-478-000, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to authorize Tennessee to transport and additional 25,000 Mcf of natural gas per day for Transcontinental Gas Pipe Line Corporation (Transco) and to authorize an additional delivery point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Tennessee states that in Docket No. CP84-478-000 it was authorized to transport for Transco up to 10,000 Mcf of natural gas per day from reserves in the West Cameron Block 215 area, offshore Louisiana, for redelivery to Transco at three specified delivery points in Louisiana and Texas. Pursuant to an amendment dated February 21, 1984, to the gas transportation agreement dated November 23, 1985, between Tennessee and Transco, Tennessee proposes to increase the transportation quantity from 10,000 Mcf to 35,000 Mcf of natural gas per day and to establish an alternative delivery point to Transco in Jasper County, Mississippi (Heidelberg). Tennessee states that a volume charge equal to the product of 24.41 cents times the total volume in Mcf delivered at Heidelberg, less 3.12 percent of the volumes received from Transco for

Tennessee's system uses and unaccounted-for, would be charged.

Comment date: December 13, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

**15. Texas Gas Transmission Corporation**  
[Docket No. CP86-140-000]

Take notice that on November 1, 1985, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP86-140-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,300 Mcf of natural gas per day for Lawrenceburg Gas Transmission Corporation's (Lawrenceburg) system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas requests authority to transport up to 15,300 Mcf of gas per day on an interruptible basis for Lawrenceburg from Texas Gas's existing interconnection at the tailgate of the Champlin Petroleum Company plant (Champlin Plant) located in the Carthage field, Panola County, Texas, to four existing points of interconnection with Lawrenceburg all located in Dearborn County, Indiana, and all more fully described in the transportation agreement between Lawrenceburg and Texas Gas dated October 16, 1985. It is explained that Lawrenceburg would purchase such gas from TXG Marketing Company at the tailgate of the Champlin plant.

Texas Gas proposes to charge for its transportation service the legally effective rate applicable for the type of service rendered as it may exist from time to time and as specified in Texas Gas's rate schedule on file with the Commission. The current transportation rate for the receipt points listed in the transportation agreement is 37.73 cents per Mcf, it is said.

Texas Gas has also requested automatic authority to add and/or delete receipt points under the transportation agreement. Although no new facilities are necessary to transport gas for Lawrenceburg from the Champlin Plant, Texas Gas proposes to construct and report new facilities which may be needed at such other points, under its blanket certificate issued in Docket No. CP82-407-000 and Section 157.208 of the Commission's Regulations.

Texas Gas states that Lawrenceburg has requested this transportation service to take advantage of low-cost supply available to it.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

**16. United Gas Pipe Line Company**

[Docket No. CP86-112-000]

Take notice that on October 31, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86-112-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of a maximum daily quantity of 1,500 Mcf of natural gas to Stevens Utilities and to construct and operate a 2-inch sales tap necessary to implement the sale and delivery of said gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

United States that it has entered into a service agreement, dated August 8, 1985, with Stevens Utilities to sell and deliver certain of its natural gas requirements for resale in the vicinity of Polk County, Texas. United proposes to make the sale under its Rate Schedule G-N. United proposes to construct and operate a 1-inch sales tap on its Waskom-Goodrich 20-inch pipeline located in Polk County, Texas, which is necessary to implement the sale and delivery of gas to Stevens Utilities. The estimated cost of said facilities is \$26,531 which United States it would finance from funds on hand.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

**17. United Gas Pipe Line Company**

[Docket No. CP86-77-000]

Take notice that on October 28, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP86-77-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing United to increase the maximum daily quantity (MDQ) of natural gas for the Board of Commissioners of Gas Utility District No. 1 of Livingston Parish, Louisiana (Gas Utility District No. 1) and to construct and operate facilities necessary to establish a new delivery point to Gas Utility District No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that Gas Utility District No. 1 requires an increase in MDQ from 519 Mcf to 1,519 Mcf of natural gas in order to meet a significant increase in demands for new service due to continued growth in population and

commercial establishments in the district.

United has indicated that a new delivery point would also be necessary through which to deliver the proposed increase. Further, the increase would not result in a net increase in demand on United's system but rather would replace a small portion of the market that United has experienced, it is asserted.

Construction cost is estimated to be \$2,500.

Comment date: December 13, 1986, in accordance with Standard Paragraph F at the end of this notice.

**18. Valley Gas Transmission, Inc.**

[Docket No. CP86-68-000]

Take notice that on October 24, 1985, Valley Gas Transmission, Inc. (Valley Gas), P.O. Box 32999, San Antonio, Texas 78216, filed in Docket No. CP86-68-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain transmission pipeline facilities and related properties and equipment by sale to an affiliate, Intrastate Gathering Corporation (IGC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Valley Gas requests the Commission permit the abandonment, by sale to IGC, of its Live Oak natural gas system consisting of approximately 69.7 miles of various sized pipeline together with all related properties and equipment located in Jim Wells and Live Oak Counties, Texas, through which it makes a sale of gas to United Gas Pipe Line Company (United). Valley Gas states it would sell the Live Oak system to IGC at the net book evaluation made June 30, 1985, of \$670,733.

Valley Gas states that upon abandonment it would continue to sell gas to United under its Rate Schedule 10 and that IGC would transport the gas to United for the account of Valley Gas under Section 311 of the Natural Gas Policy Act of 1978. Valley Gas contends the proposed abandonment is in the public interest as it would be more economic to have IGC transport the gas as an intrastate entity rather than maintain the Live Oak system as a jurisdictional facility. Valley Gas states that its rate for the sale of gas to United would then become a three-part rate consisting of: (1) Purchased gas costs; (2) an administrative and general expense charge of 3.09 cents per Mcf, and (3), IGC's charge of 9.50 cents per million MBtu equivalent gas cost for the transportation service, or a total non-gas charge of 13.45 cents per mcf. Valley

Gas' current rate for non-gas service charge is 14.83 cents per Mcf, it is explained.

Valley Gas asserts that United has cut back its purchases from approximately 25 million Mcf of gas per day to an average of 3 million Mcf per day as a result of Commission Order No. 380, which relieved United of existing minimum bill obligations, and a general failure of United's markets. Because of these decreases in United's purchases, Valley Gas anticipates its non-gas unit costs would increase to 20.72 cents per Mcf in its 1986 general rate filing, with the result that United would be required to pay a considerably higher charge than it currently pays. Valley Gas also contends that two of its other customers, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Entex, Inc. (Entex), while not served from the Live Oak system, would also benefit from the lower non-gas charges resulting from the proposed abandonment.

Comment date: December 13, 1985, in accordance with Standard Paragraph F at the end of this notice.

**Standard Paragraphs:**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 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 and 385.214) 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 filing 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 the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-28574 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-142-000 et al.]

**Electric Rate and Corporate Regulation Filings; Central Power & Light Co. et al.**

Take notice that the following filings have been made with the Commission:

**1. Central Power & Light Company**

[Docket No. ER86-142-000]

November 21, 1985.

Take notice that on November 14, 1985, Central Power & Light Company (CPL) filed a Contract for the sale of firm power and energy to the City of Robstown, Texas. In its filing, CP&L states that the rates specified under the Contract are identical to those set forth in CPL Rate Schedule No. 62 which were approved by the Commission in Central Power and Light Company, FERC Docket No. ER81-387-000, 18 FERC ¶ 62,474 (1982).

Copies of the filing were served upon the City of Robstown, Texas and the Public Utility Commission of Texas.

Comment date: December 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

**2. Upper Peninsula Power Company and Edison Sault Electric Company**

[Docket No. EC86-5-000]

November 21, 1985.

Take notice that on November 14, 1985, Upper Peninsula Power Company

("Power Company") and Edison Sault Electric Company ("Edison") filed a joint application pursuant to section 203(a) of the Federal Power Act seeking an order authorizing the sale and transfer by Power Company and the acquisition by Edison of certain transmission and distribution facilities located between the Edison Sault Tie and Seul Choix Point for \$91,905, the depreciated original cost on the books of the Power Company (excluding Seul Choix Point facilities which will be transferred to Edison). The sale of said facilities will enable Inland Lime and Stone Company, a current customer of the Power Company, to save up to 200 jobs by reducing its operating costs and remain competitive. The sale will include approximately fourteen residential and commercial customers at Seul Choix Point which are served from distribution facilities located at Power Company's substation at Inland's Dock Facilities.

The Power Company is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. It is engaged in the generation, transmission and distribution of electric energy in all or parts of ten counties in the Upper Peninsula of Michigan.

Edison was incorporated under the laws of the State of Michigan on January 4, 1892, with its principal business office at Sault Ste. Marie, Michigan. It is engaged in the generation, purchase, transmission and sale of electric energy in the eastern Peninsula of Michigan.

Comment date: December 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

**3. Illinois Power Company**

[Docket No. ER86-169-000]

November 21, 1985.

Take notice that Illinois Power Company ("the Company") on November 14, 1985 tendered for filing a Rate for Economy Energy which supersedes its rate for Economy Energy sales currently on file with the Federal Energy Regulatory Commission. The proposed rate will allow the Company to charge less than the current split-the-savings rate for Economy Energy sales and thereby enhance sales and an efficient supply of electricity in a competitive electricity market.

Comment date: December 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

**4. Wisconsin Power and Light Company**

[Docket No. ER86-171-000]

November 22, 1985.

Take notice that on November 18, 1985, Wisconsin Power and Light Company (WPL) tendered for filing a wholesale power agreement dated October 22, 1985 between the Village of Benton and WPL. WPL states that this agreement supersedes the earlier contract between the Company and the Village of Benton dated January 12, 1971 (FPC rate schedule 88).

WPL requests an effective date of October 22, 1985, based upon the parties' mutual consent to this agreement. WPL states that a copy of the agreement and the filing have been provided to the Village of Benton and the Public Service Commission of Wisconsin.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**5. Iowa Power and Light Company**

[Docket No. ER86-174-000]

November 22, 1985.

Take notice that Iowa Power and Light Company ("Company") on November 18, 1985, tendered for filing Service Schedule I dated May 1, 1985 ("Schedule I"), a Second Amendment dated May 1, 1985 ("Second Agreement") and a Letter Agreement dated September 16, 1985 as supplements to the Electric Interchange Agreement dated November 3, 1978 ("Interchange Agreement"), between Company and Montezuma Municipal Light & Power ("Montezuma").

Schedule I provides for sale of transmission service from Iowa Power to Montezuma. The Second Amendment provides for revisions of and clarifications to the Interchange Agreement. The Letter Agreement provides for the sale of base load power and energy from Company to Montezuma between May 1, 1985 and May 1, 1990.

Company requests that the Commission waive its prior notice requirements and accept Schedule I, the Second Amendment and the Letter Agreement with an effective date of May 1, 1985.

Copies of this filing were served upon each affected party and the Iowa State Commerce Commission.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**6. Southern California Edison Company**

[Docket No. ER86-177-000]

November 22, 1985.

Take notice that, on November 20, 1985, Southern California Edison Company ("Edison") tendered for filing a notice of change of rates for the modification of Table 1 of Appendix B of the Integrated Operations Agreements to reflect the scheduling units for scheduling and dispatching of entitlements in Palo Verde under the provisions of the following rate schedules:

	Rate schedule FERC No.
City of Azusa	144
City of Banning	145
City of Colton	146
City of Riverside	94

Edison requests, to the extent necessary, Waiver of Notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**7. Kansas City Power & Light Company**

[Docket No. ER86-172-000]

November 22, 1985.

Take notice that on November 18, 1985, Kansas City Power & Light Company ("KCPL") tendered for filing a Municipal Participation Agreement dated November 7, 1985 between KCPL and the City of Salisbury, Missouri ("City"), to become effective as of October 1, 1985. The Agreement provides for the initial rates and charges for certain whole-sale service by KCPL to the City.

In its filing, KCPL states that the rates included in the above-mentioned Municipal Participation Agreement are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**8. Appalachian Power Company**

[Docket No. ER86-188-000]

November 22, 1985.

Take notice that American Electric Power Service Corporation (AEP) on November 18, 1985 tendered for filing on behalf of its affiliate Appalachian Power Company (APCO), which is an AEP affiliated operating subsidiary, Modification No. 23 dated October 15,

1985 to the Interconnection Agreement dated February 1, 1948 between APCO and Virginia Electric and Power Company (Virginia). The Commission has previously designated the 1948 Agreement as APCO's Rate Schedule FERC No. 16 and Virginia's Rate Schedule FERC No. 7.

Section 1 of Modification No. 23 revises the parties' Short Term Power Service Schedule by providing for a rate of up to their respective generation demand rates per kilowatt per week. This revision applies to both Weekly and Daily Short Term Power. Section 2 changes the energy rate from "110%" to "up to 110%" of the out-of-pocket cost of supplying the energy when either party is the supplying party. Section 3 adds a statement that the sum of the demand charge and the energy charge will not be less than 110% of the out-of-pocket cost of supplying the energy.

Copies of the filing were served upon Public Service Commission of West Virginia and the Virginia State Corporation Commission.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**9. San Diego Gas & Electric**

[Docket No. ER86-140-000]

November 22, 1985.

Take notice that on November 19, 1985 San Diego Gas & Electric (SDG&E) tendered for filing a notice of cancellation of the 1985 Capacity Sale Agreement between San Diego Gas & Electric and Arizona Public Service Company (APS).

SDG&E states that the Agreement, by its terms, terminates as of October 31, 1985.

SDG&E requests an effective date of November 1, 1985.

Copies of this filing were served upon the Public Utilities Commission of the State of California.

Comment date: December 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

**10. Carolina Power and Light Company**

[Docket No. ER 86-141-000]

November 22, 1985.

Take notice that on November 14, 1985 Carolina Power and Light Company tendered for filing the unexecuted Exhibit A's for the following customers and points of delivery:

Haywood EMC—Fine Creek 115 kv  
Jones-Onslow EMC—Folkstone 115 kv

Comment date: December 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-28571 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-282-000 et al.]

**Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Beaver Creek Hydro et al.**

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

November 26, 1985.

Take notice that the following filings have been made with the Commission.

**1. Beaver Creek Hydro, Inc.**

[Docket No. QF86-282-000]

On November 1, 1985, Beaver Creek Hydro, Inc. (Applicant), of P.O. Box 1016, Lewiston, Idaho 83501 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 proposed 4.3 megawatt hydroelectric facility (P. 7853) will be located on Beaver Creek in Clearwater County, Idaho.

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.

**2. Big Bear Area Regional Wastewater Agency**

[Docket No. QF86-290-000]

On November 1, 1985, Big Bear Area Regional Wastewater Agency (Applicant), of 139 East Big Bear Boulevard, P.O. Box 517, Big Bear City, California 92314 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 proposed 1.3 megawatt hydroelectric facility (P. 9186) will be located in San Bernardino County, California.

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.

**3. CRSS Federal Cogenerators**

[Docket No. QF86-148-000]

On October 31, 1985, CRSS Federal Cogenerators (Applicant), of P.O. Box 22427, 1177 West Loop South, Houston, Texas 77227 (c/o CRS Serrine, Inc.), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Federal Paper Board Company, Inc., Sprague Board Mill, Inland Road, Versailles, Connecticut 06383. The facility will consist of a steam turbine generator unit and a circulating fluidized combustion boiler. The electric power production capacity will be 69.4 MW. The primary source of energy will be coal.

**4. Kern Front CoGen, Inc.**

[Docket No. QF86-302-000]

On November 13, 1985, Kern Front CoGen, Inc. (Applicant), of P.O. Box 19398, Houston, Texas 77224 submitted for filing an application for certification of a facility as a qualifying cogeneration

facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located 8 miles north of Bakersfield in Kern County, California. The facility will consist of two combustion turbine generators, two heat recovery steam generators, and a single condensing steam turbine-generator. The electric power production capacity will be 50,000 kilowatts. The primary energy source will be natural gas. The extracted steam will be used for enhanced oil recovery by the Petro-Lewis Corporation and Cities Service Oil and Gas Corporation. Installation will begin in May 1986.

**5. Marble Creek Hydro, Inc.**

[Docket No. QF86-283-000]

On November 1, 1985, Marble Creek Hydro, Inc. (Applicant), of P.O. Box 1016, Lewiston, Idaho 83501 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 proposed 1.81 megawatt hydroelectric facility (P. 7854) will be located on Marble Creek in Shoshone County, Idaho.

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.

**6. Reeds Creek**

[Docket No. QF86-280-000]

On November 1, 1985, Reeds Creek (Applicant), of P.O. Box 1016, Lewiston, Idaho 83501 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 proposed 4.3 megawatt hydroelectric facility (P. 7851) will be located on Reeds Creek in Clearwater County, Idaho.

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.

#### 7. Scott Paper Company

[Docket No. QF86-279-000]

On November 1, 1985, Scott Paper Company (Applicant), of Scott Plaza Two, Philadelphia, Pennsylvania 19113 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 3.7 megawatt hydroelectric facility (P. 2611) is located in Kennebec and Somerset Counties, Maine.

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.

#### 8. Snake Creek

[Docket No. QF86-284-000]

On November 1, 1985, Snake Creek (Applicant), of P.O. Box 1016, Lewiston, Idaho 83501 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 proposed one megawatt hydroelectric facility (P. 7855) will be located on Snake Creek in Clearwater County, Idaho.

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.

#### 9. St. Maries River Hydro, Inc.

[Docket No. QF86-281-000]

On November 1, 1985, St. Maries River Hydro, Inc. (Applicant), of P.O. Box 1016, Lewiston, Idaho 83501 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 proposed 3.4 megawatt hydroelectric facility (P. 7852) will be located on the St. Maries River near St. Maries in Benewah County, Idaho.

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.

#### Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-28572, Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-119-000 et al.]

#### Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.; Delmar Wagner et al.

Comment date: Thirty days from publication in the Federal Register, in

accordance with Standard Paragraph E at the end of this notice.

November 25, 1985.

Take notice that the following filings have been made with the Commission.

#### 1. Delmar Wagner

[Docket No. QF86-119-000]

On October 30, 1985, Delmar Wagner (Applicant), of 326 Pine Grove, Rogue River, Oregon 97537 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 4 MW hydroelectric facility (P. 6568-000) will be located on Grave Creek near Placer in Josephine County, Oregon.

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.

#### 2. C.S.P. International Corporation

[Docket No. QF86-82-000]

—Jim Thorpe Power Complex

—Hauto, Carbon County, PA

On October 28, 1985, C.S.C. International Corp., (Applicant) of 1760 Market Street, Sixth Floor, Philadelphia, Pennsylvania 19103, 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 small power production facility will be located near Hauto, Mauch Chunk Township, Carbon County, Pennsylvania. The facility will consist of up to five units with each unit utilizing a fluidized bed boiler, 7 megawatt steam turbine generator, and related auxiliary equipment. The primary energy source for the facility will be "waste" in the form of anthracite culm. The five units will be installed over the course of five years and the facility at completion will have an electric power production capacity of 35 megawatts.

**3. Earle V. Ausman and Earl P. Ellis**

[Docket Nos. QF86-245-000 and QF86-246-000]

On November 1, 1985, Earle V. Ausman and Earl P. Ellis (Applicants), of respectively 3909 Geneva Place, Anchorage, Alaska 99508, and 690 West Lake Ridge Drive, Eagle River, Alaska 99577 submitted for filing two applications for certification of facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitute complete filings.

Each hydroelectric small power production facility will be located in Seward Meridian, Alaska. One facility will utilize water from Bear Creek (QF86-245-000) with a power production capacity of 700 kW. The other facility will utilize water from McRoberts Creek (QF86-246-000) with a power production capacity of 400 kW.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments of 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.

**4. Gorbell/Thermo Electron Power Company**

[Docket No. QF86-276-000]

On November 1, 1985, Gorbell/Thermo Electron Power Company (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254 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 13.8 MW small power production facility will be located at Route 150, in Athens, Somerset County, Maine. The primary energy source will be wood in the form of wood waste and whole tree chips.

**5. Harder Farms, Inc. and Scott Ranch**

[Docket No. QF86-184-000]

On November 1, 1985, Harder Farms, Inc. and Scott Ranch (Applicant), of P.O. Box 98, Kahlotus, Washington 99335 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 five megawatt hydroelectric facility (P. 7390) is located on the Palouse River near Washtucna, in Franklin, Whitman and Adams Counties, Washington.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments of 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.

**6. Joe Kubilus**

[Docket Nos. QF86-254-000 and QF86-254-001]

On November 1, 1985, Joe Kubilus (Applicant), of Box 248, Davis Illinois 61019 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at 304 N. West Street, Davis Illinois 61019. The facility will consist of an internal combustion engine generator. The heat from the engine exhaust and jacket cooling water will be used for space and water heating. The electric power production capacity of the facility will be 25 kW. The primary energy source will be natural gas or biomass in the form of wood and agricultural residue. Installation of the facility is expected to begin in January 1986.

**7. Waste Management Inc.**

[Docket No. QF86-135-000]

On October 31, 1985, Waste Management, Inc., (Applicant) of 3003 Butterfield Road, Oak Brook, Illinois 60521 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 proposed small power production facility will be located at northeast corner of New Ford Mill Road and Bordentown Road, Fall Township, Bucks County, Pennsylvania. The facility will

burn municipal solid waste to generate 55 MW of electric power.

**8. Vermont Hydroelectric, Inc.**

[Docket No. QF86-273-000]

On November 1, 1985, Vermont Hydroelectric, Inc. (Applicant), of Chace Mill, 1 Mill Street, Burlington, Vermont 05401 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 75 megawatt hydroelectric facility is located in Rutland County, Vermont.

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 only to establish serves 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.

**9. The Village of Potsdam, New York**

[Docket No. QF86-274-000]

On November 1, 1985, The Village of Potsdam, New York (Applicant), of Civil Center, Potsdam, New York 13676 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 800 kilowatt hydroelectric facility (P. 2869) is located on the Raquette River at Potsdam, St. Lawrence County, New York.

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.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-28573 Filed 11-29-85; 8:45 am]

BILLING CODE 6717-01-M

### Office of Energy Research

#### Energy Research Advisory Board; Civilian Nuclear Power Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Civilian Nuclear Power Panel of the Energy Research Advisory Board (ERAB).

Date and time: December 16, 1985—10:00 a.m.—5:00 p.m.

Place: Department of Energy, 1000 Independence Avenue, SW, Room 4A-110, Washington, DC 20585.

Contact: Charles E. Cathey, Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-2283.

Purpose of the parent Board: To advise the Department of Energy (DOE) 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: The Civilian Nuclear Power Panel is a subgroup of ERAB and reports to the parent Board. The purpose of the Panel is to review the Strategic Plan for the Civilian Reactor Research and Development Plan now being prepared by the Department of Energy.

#### Tentative Agenda

- Organization items.
  - Witnesses from the Electric Power Research Institute, an electric power company, and either state government or a public utilities commission.
  - Panel discussion of briefings.
  - Discussion of the Panel progress in the areas of light water reactor, utilization and improvement, advanced reactor development and institutional challenges.
  - Discussion of work to be accomplished before next meeting.
  - Publish 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 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 Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

Issued at Washington, DC, on November 25, 1985.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 85-28547 Filed 11-29-85; 8:45 am]

BILLING CODE 6450-01-M

### ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2932-7]

#### Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the Federal Register a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

#### SUPPLEMENTARY INFORMATION:

##### Office of Pesticides and Toxic Substances

Title: Records of PCB Storage and Disposal (EPA ICR #0583). (This is a renewal of an existing Information Collection Request, with no change proposed.)

Abstract: Storage and/or disposal facilities must prepare and maintain records of the PCBs they handled at their facilities during the previous year. The Agency uses the data to monitor the movement and ultimate disposal of the PCBs.

Respondents: Five thousand facilities that store or dispose of PCBs.

#### Agency PRA Clearance Requests Completed by OMB

##### EPA #0805: Liquids in Landfills—

Definition of Liquid Test Hazardous Waste Management Systems, Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal, was approved 11/14/85 (OMB #2050-0012; expires 11/30/88).

EPA #1087: New Source Performance Standards for Onshore Natural Gas Processing, was approved 11/15/85 (OMB #2060-0123; expires 11/30/88).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Regulation and Information Management Division, 401 M Street, SW., Washington, DC 20460

and  
Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: November 25, 1985.

Daniel J. Fiorino,

Acting Director, Regulation and Information Division.

[FR Doc. 85-28549 Filed 11-29-85; 8:45 am]

BILLING CODE 6560-50-M

### FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1553]

#### Petitions for Reconsideration of Actions in Rulemaking Proceedings

November 25, 1985.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to § 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Establishment of Satellite Systems Providing International Communications. (CC Docket No. 84-1299)

Filed By: Norman P. Leventhal, Mary C. Lyons & Stephen D. Baruch, Attorneys for Pan American Satellite Corporation on 11-18-85. Frank W. Krogh for RCA.

Communications, Inc., on 11-18-85.  
Joseph M. Kittner, Randolph J. May &  
Peter B. Kenney, Jr., Attorneys for  
American Broadcasting Companies,  
Inc., CBS Inc., & National  
Broadcasting Company, Inc., on 11-  
18-85.

William L. Fishman, Atty., for  
International Satellite, Inc., on 11-  
18-85.

John S. Hannon, Jr., Keith H. Fagan, J.  
Roger Wollenberg, Sally Katzen,  
Roy T. Englert, Jr., Richard E. Wiley  
& Philip V. Permut, Attorneys for  
Communications Satellite  
Corporation on 11-18-85.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-28500 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

#### Application for Review Filed by John P. Weber, Jr.; Memorandum Opinion and Order

Adopted: November 20, 1985;

Released: November 22, 1985.

By the Commission:

1. The Commission has before it an application for review filed by Mr. John P. Weber, Jr. (Weber), Melbourne, Florida, seeking reversal of an action taken by the Chief, Field Operations Bureau (FOB), pursuant to delegated authority. Weber seeks Commission review of the denial by the Chief, FOB, of a petition for rulemaking filed by Weber concerning the establishment of an auxiliary monitoring service for the purpose of monitoring all radio services.

2. Specifically, Weber requested the issuance of a Notice of Proposed Rulemaking regarding the formal establishment of a comprehensive volunteer auxiliary monitoring organization, supplementary to present Commission organization and facilities, to assist Commission monitoring stations in the performance of their duties. Weber's proposal concerned voluntary auxiliary monitoring in all radio services including amateur, aircraft, broadcast, citizens band and marine, and, according to Weber, was prompted by the substantial increase in the number of radio stations utilizing the airwaves despite existing Commission budgetary and personnel constraints. Weber's petition asserted that the proposed auxiliary service, working under the direct supervision of the Commission, would provide assistance to the Commission both in terms of manpower and increased geographical location, proposed certain general guidelines for the establishment of such

a service, and set forth his belief that a more universal type of volunteer monitoring service dealing with all of the various radio services administered by the Commission would be preferable to attempting to set up specialized monitoring service groups that would be parochial and inefficient. Weber's reference to specialized monitoring service groups concerned the present volunteer monitoring program established in the Amateur Radio Service as a result of certain amendments to the Communications Act discussed below.

3. The Chief, FOB, while expressing appreciation for Weber's recognition of, concern for, and interest in the Commission's substantial task in enforcing the Communications Act and its rules in the face of the greatly increased use of radio for various purposes, denied Weber's petition for rulemaking for certain legal and practical reasons. First, the Chief, FOB, noted that Congress, as part of the Communications Amendments Act of 1982, amended the Communications Act to authorize the Commission to use volunteers in the Amateur and Citizens Band (CB) Radio Services only to monitor violations of the Act or the Commission's rules. See 47 U.S.C. 154(f)(4) (C) and (D). Thus, Congress, in enacting these Amendments, recognized that the amateur service, approximately 400,000 strong in the United States, had an historic tradition as the most self-regulated and disciplined radio service and was an exceptionally good candidate for further self-regulation and less expenditure of government time and effort in monitoring. Congress also authorized the Commission to accept the volunteer services of CB operators to monitor for rule violations in that service in order to assist in preserving the integrity of that service in the face of continued substantial violations by a small minority of operators. Congress further suggested that the Congressionally-enacted amendments were necessary in order to authorize the Commission to accept such volunteer monitoring assistance in those services since it is the statutory responsibility of the Commission to monitor and enforce the radio laws of the United States, and since there is a federal law that precludes a government agency from accepting voluntary and uncompensated service. See 37 U.S.C. 665(d). Moreover, the Chief, FOB, pointed out that in order to make the use of monitoring volunteers in those services lawful, former Section 605 of the Communications Act, now section 705(a), had to be amended to exempt the Amateur and CB services so that the volunteers could legally

intercept and disclose point-to-point type of signals or communications to each other or the Commission. See 47 U.S.C. 705(a). He further concluded that there was, at present, no authority for the Commission to use monitoring volunteers in other radio services and that any such assistance, aside from broadcast or emergency communications intended for reception by the general public, would likely be violative of former section 605 and the existing section 705(a).

4. Additionally, the Chief, FOB, set forth several practical limitations that militate against a universal type of volunteer monitoring program such as that proposed by Weber. He noted that the establishment of detailed volunteer monitoring guidelines for just the Amateur service was a substantial undertaking, and that an attempt to establish such a program for all radio services at once would be too broad and ambitious a project for effective Commission oversight and supervision. He also noted that the Commission has plans to assess the effectiveness of the use of volunteers for monitoring purposes in the amateur service before establishment of a similar program in the CB service. Secondly, the Chief, FOB, indicated that the regulatory emphasis in the Commission's monitoring of a number of services has concerned the signal quality and technical parameters of radio transmitters in order to reduce interference, and that since the expense of such signal analysis equipment and necessary training may be prohibitive for volunteers, potential assistance to the Commission in that technical regard would be extremely limited. He further pointed out that the volunteer program that was being implemented in the Amateur Radio Service involved no authorization for compensation from the government to the volunteers for equipment, mailing or other costs. Finally, he expressed his belief that the assistance the Commission anticipates receiving from authorized Amateur Radio Service volunteers in monitoring, and in helping the Commission to target violators for Commission investigation and enforcement will enable the Commission to avoid diminishing its monitoring of other radio services for technical or non-technical violations.

5. In response to the denial of his petition for rulemaking, Weber submitted further comments in support of his proposal. He stressed that the volunteer monitoring service he proposed would serve directly under the supervision of existing FCC monitoring facilities without pay and with no need

for an intermediate organization such as in the present amateur auxiliary. He emphasized that personnel eligible to serve would be selected from the best available for the purpose, such as retired Commission personnel, ex-commercial radio operators, broadcast personnel, etc. Weber further contended that section 705(a) of the Communications Act would not present an impediment to his proposal since volunteers would effectively be "agents" of the "FCC monitor service" and Chapter 119 of Title 18 of the U.S. Code would afford them the same legal protection afforded paid FCC employees with regard to the interception and disclosure of oral communications. He also asserted that, if necessary for the purpose of being agents of the Commission, the Commission could compensate volunteers at an annual salary of \$1.00 and that under his proposal only listening would be done at a volunteer's own location, and the determination of technical infractions other than the obvious ones would be referred to an FCC monitoring station. Weber further contended that the agreement between the American Radio Relay League (ARRL) and the Commission concerning the present volunteer monitoring program in the Amateur Radio Service was illegal since the meetings leading to the agreement did not conform to the procedural requirements of the Sunshine Act, 5 U.S.C. 552(b), and that the agreement with the ARRL could lead to ARRL volunteers violating 18 U.S.C. 2511 concerning the interception and disclosure of oral communications and even state or local trespass statutes if such a volunteer attempted to inspect a station. Weber further contended that Florida law could also be violated by the ARRL volunteers since Florida law dealing with the interception and disclosure of wire and oral communications requires in section 934.03 of the Florida Statutes Annotated that "all parties to the communication have given prior consent to such interception." Weber asserts that there are practical problems with the Commission-ARRL agreement regarding reimbursement and travel expenses and in amateur auxiliary participation by all interested amateurs. Finally, Weber contends that the ARRL does not speak for the majority of amateurs and that his proposal would result in a more effective volunteer organization for the benefit of the Commission.

#### Discussion

6. We affirm the denial by the Chief, FOB, of Weber's petition for rulemaking

for the legal and practical reasons summarized above.

7. In further response to Weber's contentions and concerns, it is initially noted that the presently established Amateur Auxiliary involving a formal agreement and close cooperation between FOB and ARRL is an arrangement with an organization of national and regional scale that was virtually necessary in order to accomplish the intent of the legislation. Otherwise, FOB's burden in dealing with hundreds of individual volunteers daily would have been far too onerous. Working together, FOB and the ARRL can alleviate this workload, seek consistency in processes and results, train and qualify volunteers, and perform other administrative tasks essential to the program. Additionally, the budgetary relief for FOB, as intended by Congress, can also be achieved. It is noted that the Amateur Auxiliary represents a cadre of volunteers trained to independently handle many of the Amateur radio related requests for assistance received by Commission field facilities. Among other matters, the volunteers devise and implement means to foster wider knowledge of the rules, conduct monitoring of the amateur frequencies to encourage compliance with Commission Rules and good operating practices, develop solutions to problems arising from the operation of amateur stations, and undertake specific projects as the need arises. With regard to Weber's contention that volunteers could be nominally compensated and considered "agents" of the Commission, it is noted that the legislation enacted by Congress for the purpose of allowing Amateur and CB volunteers to assist the Commission in monitoring makes clear that all volunteers will serve without any compensation and will not be deemed employees of the Federal Government for the purpose of receiving any benefits as a result of their services. See the legislative history of 47 U.S.C. 154(f)(4) (C) and (D), H.R. Conf. Report No. 97-765, 97th Cong., 2d Sess. 28 (1982), reprinted in 1982 U.S. Code Cong. & Ad. News 2261 at 2273. Under the present 47 U.S.C. Section 705(a), the use of volunteer monitors in any point to point radio service protected by section 705(a) appears to be violative of that section.

8. With regard to Weber's contention that Commission staff meetings with the ARRL that led to the present agreement and arrangement with that organization violated the procedural requirements of the Government in the Sunshine Act, 5 U.S.C. 552b, it is noted that the express wording of the Government in the

Sunshine Act reflects that the phrase "subdivision thereof" contained in 5 U.S.C. 552b(a)(1) for the purpose of open meetings and prior notice requirements refers back to "collegial body" or the Commissioners themselves, not to "agency" or staff members. Thus, a subdivision made up entirely of employees other than members of the collegial body are not covered by the Act, even though they may be authorized to act on behalf of the agency. See R. Berg and S. Klitzman, *An Interpretive Guide to the Government In the Sunshine Act*, at 3 (1978). Sections 0.111 and 0.311 of the Commission's Rules, 47 CFR 0.111 and 0.311, authorize the Field Operations Bureau to enforce the Commission's rules and regulations, monitor, inspect, and investigate all non-government communications matters and delegate those matters to the Chief, FOB. FOB staff members functioned as Commission representatives in meetings with the ARRL concerning an arrangement for volunteer auxiliary monitors and the Chief, FOB, signed the March 1984 agreement between the Commission and the ARRL with respect to the Amateur Auxiliary.

9. With regard to Weber's contention that the existing agreement with the ARRL could lead to volunteers under that arrangement violating 18 U.S.C. 2511 and 934.03 of the Florida Statutes Annotated concerning the interception and disclosure of oral communications, it is noted that 18 U.S.C. 2510(2) defines "oral communication" for purposes of 18 U.S.C. 2511 as "any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation." Thus, the statute involves a two part test involving the determination of a subjective expectation of privacy that is objectively reasonable. For purposes of that statute, a federal court has held transmissions on the Amateur or ham radio frequency are means of communications to which large numbers of people have access; that a reasonable person would not expect that words uttered over the ham radio frequency would be heard only by those few individuals for whom the communication was intended; that the objective expectation of privacy in that circumstance is too minimal to deserve recognition; and that, consequently, amateur radio transmissions are not "oral communications" under the federal wiretapping statute. See *United States v. Rose*, 669 F.2d 23 (1st Cir. 1982), cert. denied sub nom. *United States v. Hill*, 459 U.S. 828 (1982). Moreover, the

1982 amendment to the Communications Act that removed the Amateur Radio Service from the protection of 47 U.S.C. 705, considered to be the Communications Act's "privacy of communications" provision for point to point radio transmissions, provides further support for not considering such amateur transmissions to be private. There is no reason to assume that a different interpretation would apply under the Florida law which is, in large measure, modeled after the federal wiretapping statute. See, e.g., *Dorsey v. State*, 402 S.2d 1178 (Fla. Sup. Ct. 1981).

10. Regarding Weber's concern that the present Amateur Auxiliary volunteers could violate state or local trespass statutes if they attempted to inspect a station, it is noted that the legislative history of 47 U.S.C. 154(f)(4) (C) and (D) reflects the intent of Congress that volunteers issue advisory notices to apparent violators and not impose sanctions or take any other enforcement actions. See H.R. Conf. Report 97-765, 97th Cong., 2d Sess. 28, 30 (1982), reprinted in 1982 U.S. Code Cong. & Ad. News 2261, 2273. The only types of inspections of amateur stations by the Auxiliary provided for in FOB's agreement with ARRL are a courtesy inspection of such stations or other equipment with the voluntary consent of the licensee or owner to help resolve complaints and allegations, as well as to determine causes, in circumstances such as the experiencing of interference and courtesy amateur station evaluations. The Amateur Auxiliary has no mandatory or formal inspection or enforcement authority. It is noted that the function of the Amateur Auxiliary is to assist FOB and the Commission by monitoring amateur frequencies to advise users of radio operations that are compliant or non-compliant with the Commission's rules, foster a wider knowledge of Commission Rules, assist the Commission and FOB in responding to complaints by encouraging cooperative solutions, provide help to FOB in targeting intentional or recalcitrant violators so that the Bureau can best apply its limited resources to problem areas or violators, and to perform other special projects that may arise from time to time. Weber further contends that there are practical problems with the Commission-ARRL agreement regarding reimbursement and travel expenses and participation by all interested amateurs. Initially, Weber cites Commission Rule §97.112, 47 CFR 97.112, which states that an amateur station shall not be used to transmit or

receive messages for hire, nor for communication for material compensation, direct or indirect, paid or promised. He notes that the ARRL's "Training Guide: The Amateur Auxiliary to the FCC's Field Operations Bureau," in section 4.13 at page 35, states that ARRL Section Managers in the Amateur Auxiliary can authorize reimbursements from ARRL for postage and other miscellaneous expenses incurred; that all members of the Amateur Auxiliary are protected by the ARRL's liability insurance policy; and that information on the proper use of unreimbursed expenses as a federal income tax deduction can be obtained from ARRL headquarters. We interpret § 97.112 of the Commission's rules concerns as constituting a prohibition against Amateur Stations transmitting or receiving messages from functioning as common carriers and as not contemplating a prohibition of reimbursement of the volunteers by the ARRL for certain expenses, insurance coverage or possible tax credit for certain expenses related to the conduct of a volunteer monitoring program. Weber asserts that travel expenses in attending training seminars could present another reimbursement-related problem, but section 4.14 of the ARRL Training Guide at page 35 concerning further volunteer training does not refer to any reimbursement, but in essence, only states that from time to time ARRL or FOB will conduct training seminars and that members of the Amateur Auxiliary will be encouraged to attend such seminars. Reimbursement is not contemplated for such travel in ARRL's Training Guide. Finally, Weber further asserts that Form CD-187, reproduced on page 41 of the ARRL Training Guide, states that an official observer must be an ARRL full member and have been a licensee of Technical Class or higher for at least four years; that since the ARRL only has membership of approximately one-third of the licensed U.S. Amateurs, this appears to exclude the majority of Amateurs from joining the Auxiliary; and that the Technician Class license is an entry grade license and nowhere near the norm of the U.S. Amateurs. It is noted that for a number of years prior to the establishment of the Amateur Auxiliary in the early fall of 1984, the ARRL had a self-regulation program within that organization for amateurs known as the ARRL Official Observer Program. The Form CD-187 reproduced in the ARRL Training Guide is an older form dating from January 1983 regarding the earlier Official Observer Program

and had not been revised as of the 1984 publication of the Training Guide. It is further noted that FOB's agreement with the ARRL includes attached FOB guidelines which incorporate in section VI concerning recruiting, selection and training of volunteers, at page 9, selection criteria reflecting a broad range of Amateur Radio Service operational interests, a cross section of Amateur Radio Service clubs or organizations in the local area, enrollment of independents, and other factors which will preclude *de facto* control by members with special interests. Moreover, on July 5, 1984, the Commission issued a Public Notice, FCC Mimeo No. 5243, announcing that FOB and the ARRL had agreed to develop and implement an Amateur Auxiliary to the FOB. That Public Notice stated that, as with volunteer examiners, organizations which are of a national or regional scale are necessary for accomplishing the intent of the legislation. The Notice further directed individuals interested in volunteering their time to the Communications Manager, ARRL, and organizations that qualify for the program to the Field Operations Bureau. To date, ARRL is the only national or regional organization to contact FOB concerning participation in the program.

11. Weber states that he believes that the ARRL has misrepresented the capability and reputation of its Official Observer organization to FOB, and that while ARRL is the only amateur organization, it does not speak for the majority of amateurs. He asserts that his proposal would provide a suitable mix of professional backgrounds and result in a more effective volunteer organization. The Commission, however, believes that the most efficient development of an amateur volunteer auxiliary is through large organizations such as the ARRL, and particularly so when such organizations bring with them their experience with prior self-regulation efforts such as ARRL's Official Observer program or other types of volunteer services. The Amateur Auxiliary is a Commission program to be administered, in large measure, by the ARRL and any other national or regional organizations that conclude a similar type of agreement with FOB. Finally, we note that the Amateur Auxiliary is still in its developmental stage, and that FOB will be closely monitoring its effectiveness in accomplishing the Congressional intent in authorizing the volunteer service.

**Ordering Clause**

12. We have reviewed the Bureau's action and find no error. Accordingly, it is ordered that, pursuant to § 1.115(g), of the Commission's Rules, 47 CFR 1.115(g), the request for reversal of the action by the Chief, Field Operations Bureau, denying the petition for rulemaking filed by John P. Weber is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-28499 Filed 11-29-85; 8:45 am]

BILLING CODE 6712-01-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

[FEMA-754-DR]

**Pennsylvania; Amendment to Notice of a Major-Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA-754-DR), dated November 9, 1985, and related determination.

**FOR FURTHER INFORMATION CONTACT:**

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

The notice of a major disaster for the Commonwealth of Pennsylvania, dated November 9, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 9, 1985:

The City of Duquesne, Elizabeth Borough, and West Elizabeth Borough in Allegheny County for Public Assistance.

Garrett Borough in Somerset County for Public Assistance.

Jefferson Township, Dunkard Township, and the Crucible Sewer Authority in Greene County for Public Assistance.

Dated: November 22, 1985.

(Catalog of Federal Domestic Assistance No. 63.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-28517 Filed 11-29-85; 8:45 am]

BILLING CODE 6718-02-M

**FEDERAL HOME LOAN BANK BOARD**

[No. 85-1076]

**Agency Information Collection Activities Under OMB Review; Notice of Change of Control of an Insured Institution or Savings and Loan Holding Company**

Dated: November 25, 1985.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Notice.

**SUMMARY:** The public is advised that the Federal Home Loan Bank Board has submitted a request for a change in the number of copies for the information collection, "Notice of Change of Control of an Insured Institution or Savings and Loan Holding Company" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the *Federal Register*. Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202-377-6933.

**FOR FURTHER INFORMATION CONTACT:**

R. Penfield Starke, Office of General Counsel. Phone: (202) 377-6453.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-28558 Filed 11-29-85; 8:45 am]

BILLING CODE 6720-01-M

**Hi-Plains Savings and Loan Association, Hereford, TX; Appointment of Receiver**

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed

the Federal Savings and Loan Insurance Corporation as sole receiver for Hi-Plains Savings and Loan Association, Hereford, Texas, on November 25, 1985.

Dated: November 26, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85-28559 Filed 11-29-85; 8:45 am]

BILLING CODE 6720-01-M

**Sierra Federal Savings and Loan Association, Denver, CO; Replacement of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act of 1983, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board has replaced Melvin O. Karthouser as Conservator for Sierra Federal Savings and Loan Association, Denver, Colorado, with Mr. D.J. Fair, effective November 12, 1985.

Dated: November 26, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85-28560 Filed 11-29-85; 8:45 am]

BILLING CODE 6720-01-M

**FEDERAL MARITIME COMMISSION****Notice of 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 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.: 224-010718-001

Title: Norfolk Terminal Agreement

Parties: Virginia International

Terminals, Inc. (VIT) Evergreen Marine Corporation (Taiwan) Ltd. (Evergreen)

Synopsis: This agreement amends the basic agreement which provides that Evergreen shall have the use of the marine terminal facilities at Norfolk International Terminals and VIT shall

provide Evergreen terminal services at the facility. The modification extends the term of the agreement to 8 years, with Evergreen having the option to terminate after 6 years on 180 days notice. Evergreen is granted concessions from the Terminal Tariff No. 1, as amended, issued by the Terminal Operators Conference of Hampton Roads, FMC No. 8435, as well as preferential crane and berth assignments. Evergreen guarantees the movement of 50,000 tons through the Norfolk International Terminals in the 1st year of the agreement, 100,000 tons for the 2nd year, and 200,000 tons for each of years 3 through 8. The parties have requested a shortened review period for the amendment.

Agreement No.: 224-010810-001

Title: Portland Terminal Agreement  
Parties: Pacific Molasses Company (PMC) The Port of Portland

Synopsis: This agreement amends the basic agreement which provided for the lease by the Port to PMC of a bulk liquid facility within the port for handling the movement of bulk liquids in waterborne commerce. The modification provides the conditions for handling caustic soda, a new commodity not previously handled by the Port at this facility. An exception would be made to the basic rent of \$2.00 per ton, to provide a basic rental of \$1.50 per ton for caustic soda. The minimum guarantee would be \$26,730. The term of the agreement would be for three years, and upon expiration of that term, the rate per ton for caustic soda would be the same as the rate for all other liquid bulk products, as provided in Agreement No. 224-010810.

Agreement No.: 217-010855

Title: V.A.G. Transport/Hoegh-Ugland Auto Liners Space Charter Agreement  
Parties: V.A.G. Transport GmbH; Hoegh-Ugland Auto Liners A/S

Synopsis: The proposed agreement would permit Hoegh-Ugland Auto Liners to charter vessel space to V.A.G. Transport for the carriage of automobiles, automobile parts, trucks and equipment in the trade between ports in Northern Europe (Bordeaux to Hamburg, inclusive, range) to ports on the United States Atlantic, Pacific and Gulf Coasts.

By Order of the Federal Maritime Commission.

Dated: November 26, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-28551 Filed 11-29-85; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Bancorp of Mississippi, 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 (12 CFR 225.23(a)(2)) 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 offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 18, 1985.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:  
1. *Bancorp of Mississippi, Inc.*, Tupelo, Mississippi; to acquire 4.99

percent (and if certain debentures are converted into stock, up to 41.96 percent) of the voting shares of First Mississippi National Corporation, Hattiesburg, Mississippi, thereby indirectly acquiring First Mississippi National Bank, Hattiesburg, Mississippi.

Applicant has also applied to acquire Continental Leasing Corporation, Hattiesburg, Mississippi, and thereby engage in originating and servicing equipment leases, pursuant to § 225.25(b)(5) of Regulation Y. These activities would be conducted in the States of Mississippi, Louisiana, Alabama, Tennessee, Texas, and Florida.

Board of Governors of the Federal Reserve System, November 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-28494 Filed 11-29-85; 8:45 am]

BILLING CODE 6210-01-M

### First Fidelity Bancorp. 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'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 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 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.

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 18, 1985.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Fidelity Bancorporation*, Newark, New Jersey; to engage *de novo* through its subsidiary, F N S Bank of New York, New York, in performing functions or activities of a fiduciary, agency, or custodial nature in the manner authorized by federal or state law, provided that F N S Bank of New York (i) will not accept deposits other than deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law and deposits representing funds received for a special use in its capacity as managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property, or for such owner or investor as agent or custodian of funds held for investment or as escrow agent, or for an issuer of, or broker or dealer in securities, in its capacities as paying agent, dividend disbursing agent, or securities clearing agent (which deposits will not be employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account) and (ii) will not make loans or investments other than call loans to securities dealers and purchasing money market instruments such as certificates of deposit, commercial paper, government and municipal securities and bankers acceptances (which loans and investments will not be used as a method of channeling funds to any nonbanking affiliates of F N S Bank of New York), pursuant to section 225.25(b)(3).

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23281:

1. *United Virginia Bankshares, Inc.*, Richmond, Virginia; to engage *de novo* through its subsidiary, United Virginia Brokerage, Inc., Richmond, Virginia, in securities brokerage services solely as agent for the account of customers, pursuant to § 225.25(b)(15) of Regulation Y.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104

Marietta Street, NW., Atlanta, Georgia 30303:

1. *Third National Corporation*, Nashville, Tennessee; to engage *de novo* through its subsidiary, TNC Securities, Inc., Chattanooga, Tennessee, in securities brokerage services, pursuant to § 225.25(b)(15) of Regulation Y. Comments on this application must be received not later than December 16, 1985.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens Fidelity Corporation*, Louisville, Kentucky; to engage *de novo* through its subsidiary, Citizens Fidelity Capital Markets, Inc., Louisville, Kentucky, in securities brokerage and underwriting and dealing in government obligations and money market instruments as follows: (i) Engaging in securities brokerage services, pursuant to § 225.25(b)(15) of Regulation Y by providing securities brokerage services and incidental activities, and such securities brokerage services will be restricted to buying and selling securities solely as agent for the account of customers and will not include securities underwriting or dealing or investment advice or research services; and (ii) engaging in underwriting and dealing in obligations of the United States, general obligation of States and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including but not limited to bankers acceptances and certificates of deposit, under the same limitations as would be applicable if the activity were performed by applicant's subsidiary member bank or its subsidiary non-member banks as if they were member banks, pursuant to § 225.25(b)(16) of Regulation Y.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bankcorp*, Los Angeles, California; to engage *de novo* through its subsidiary, First Interstate Securities, Inc., Los Angeles, California, in underwriting and dealing in such obligations of the United States, general obligations of various states and their political subdivisions, and other obligations including money market instruments such as bankers' acceptances and certificates of deposit, as state member banks may from time to time be authorized to underwrite and deal in, pursuant to § 225.25(b)(16) of Regulation Y.

Board of Governors of the Federal Reserve System, November 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-28495 Filed 11-29-85; 8:45 am]

BILLING CODE 6210-01-M

#### Huntington Bancshares, Inc. and Huntington Bancshares Kentucky, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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. 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 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.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 16, 1985.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Huntington Bancshares, Incorporated*, Columbus, Ohio and its

proposed subsidiary, *Huntington Bancshares Kentucky, Inc.*, Columbus, Ohio; have applied to acquire Commonwealth Banclease, Inc., Covington, Kentucky, and thereby engage in leasing personal or real property or acting as agent, broker, or advisor in leasing such property to the extent permitted by § 225.25(b)(5) of Regulation Y and section 4(c)(8) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, November 25, 1985.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 85-28496 Filed 11-29-85; 8:45 am]

BILLING CODE 6210-01-M

### The North Salem State Bancorp. 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 20, 1985.

**A. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The North Salem State Bancorporation*, North Salem, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The North Salem State Bank, North Salem, Indiana.

**B. Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First North Louisiana Bancshares, Inc.*, Arcadia, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Arcadia, Arcadia, Louisiana.

Board of Governors of the Federal Reserve System, November 25, 1985.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 85-28497 Filed 11-29-85; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on November 22, 1985.

#### Social Security Administration

*Subject:* Railroad Employment Questionnaire—Extension (0960-0078).

*Respondents:* Individuals or Households.

*Subject:* Beneficiary Remarriage Report—New.

*Respondents:* Individuals or Households.

*Subject:* State Mental Institution Policy Review—Extension (0960-0110).

*Respondents:* Non-Profit Institutions.

*Subject:* Extension Agreements for Assessment, Credit, or Refund Under State and Local Coverage Agreements—Existing Collection.

*Respondents:* State and Local Governments.

*OMB Desk Officer:* Judy A. McIntosh.

#### Public Health Service

##### National Institutes of Health

*Subject:* Selection and Recruitment of Subjects for the Epidemiological Survey of Oral Health in Adults—New.

*Respondents:* Federal, State and Local Governments; Businesses (profit and non-profit); Small businesses.

*Subject:* Mental Health Utilization and Reimbursement Patterns Study—Concept Clearance.

*Respondents:* Individuals or Households.

*Subject:* Study of Validity of Self-Reported Drug Use Data—New.

*Respondents:* Individuals.

*OMB Desk Officer:* Bruce Artim.

#### Health Care Financing Administration

*Subject:* Information Collection Requirements in BFO-500-F, Third Party Liability for Medical Assurances, Federal Financial Participation Rates for Skilled Professional Medical Personnel and Supporting Staff, and Sources of State Share of Financing; 42 CFR 432.50(d)(2), 433.139(a)(2); 433.139(e); 433.139(f)—HCFA-R-78—New.

*Respondents:* State or Local Governments.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: November 25, 1985.

K. Jacqueline Holz,

*Deputy Assistant Secretary for Management Analysis and Systems.*

[FR Doc. 85-28602 Filed 11-29-85; 8:45 am]

BILLING CODE 4150-04-M

#### National Institutes of Health

##### Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92-463, notice is hereby given for meetings of two 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 sections 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 contract proposals, and grant applications. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the

proposals and 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 20892 (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

Date: December 5, 1985

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852

Time:

Open: December 5, 8:30 a.m.-9:30 a.m.

Agenda: A review of administrative details.

Closed: December 5, 9:30 a.m.-adjournment

Closure Reason: To review grant applications.

Executive Secretary: John W. Abrell, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20892

Phone: 301/496-9767

Name of Committee: Cancer Biology-Immunology Contracts Review Committee

Dates: January 8-10, 1985

Place: National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland 20892

Times:

Open:

January 8, 9:00 a.m.-9:30 a.m.

January 10, 9:00 a.m.-9:30 a.m.

Agenda: A review of administrative details.

Closed:

January 8, 9:30 a.m.-recess

January 9, 8:30 a.m.-recess

January 10, 9:30 a.m.-adjournment

Closure Reason: To review contract proposals

Executive Secretary: Dr. Wilna A. Woods, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20892

Phone: 301/496-7153

Dated: November 20, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-28673 Filed 11-29-85; 8:45 am]

BILLING CODE 4140-01-M

## Public Health Service

### Passive Smoking; Meeting

Public Meeting on Passive Smoking—January 29, 1986; 9:00 a.m.-5:00 p.m., National Academy of Sciences Auditorium, 2101 Constitution Avenue, NW., Washington, DC 20418.

Open—Contract: Dr. Diane Wagener, National Research Council, 2101 Constitution Avenue, NW., Washington, DC 20418, (202) 334-2897.

Purpose: The purpose of this meeting is to receive from interested persons scientific information which is pertinent to the assessment of exposure to passive smoking and to the evaluation of literature on the potential health effects of passive smoking. Individuals wishing to make an oral or written presentation should notify Dr. Wagener at the above address. The deadline for submitting written presentations is January 6, 1986. Depending on the amount of time available, oral presentations may be limited by a time restriction.

Agenda: The National Research Council, the operating arm of the National Academy of Sciences and the National Academy of Engineering, is conducting a study at the request of the Department of Health and Human Services and the Environmental Protection Agency on methods of assessing exposure to tobacco smoke by nonsmokers that can be used in epidemiological studies. The council is also reviewing available literature on potential health effects or passive (or involuntary) smoking.

Dated: November 25, 1985.

Donald R. Shopland,

Acting Director, Office on Smoking and Health.

[FR Doc. 85-28568 Filed 11-29-85; 8:45 am]

BILLING CODE 4190-17-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-85-1566]

### Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this

proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

### Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Occupied Conveyance

Office: Housing

Form Number: HUD-9539 and 9541

Frequency of Submission: On Occasion

Affected Public: Individuals or

Households and Businesses or Other For-Profit

Estimated Burden Hours: 23,760

Status: Revision

Contact: Joseph Bates, HUD, (202) 755-5740; Robert Fishman, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-28622 Filed 11-29-85; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Utah 53696]

#### Salt Lake District; Exchange of Lands in Tooele County, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Realty Action.

**SUMMARY:** This is a Notice of a private exchange of 40 acres of public land for 40 acres of private land in Tooele County, Utah in accordance with existing law.

**ADDRESS:** Comments concerning the sale will be accepted for a period of 45 days from the date of this notice by the: District Manager, Salt Lake District, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119.

**FOR FURTHER INFORMATION CONTACT:**

Terry Catlin, Pony Express Realty Specialist, (801) 524-6773.

**SUPPLEMENTARY INFORMATION:** The following described public land has been examined and identified as suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716) or FLPMA:

**Selected Land:**

T. 6 S., R. 6 W., SLM, Utah,  
Sec. 25, NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

40 acres.

In exchange for this land, the Federal Government will acquire the following private land from Ray G. and Maree Joy Sagers, of Rush Valley, Utah:

**Offered Land:**

T. 6 S., R. 6 W., SLM, Utah,  
Sec. 25, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .

40 acres.

The offered land is within an area in Tooele County identified by the Bureau of Land Management (BLM) in land use plans for possible acquisition in Federal ownership. The selected land was identified for possible disposal by BLM in land use plans. The land ownership pattern and livestock distribution will be improved by the exchange. The value of the lands to be exchanged is equal.

The terms and conditions applicable to the exchange are:

(1) The surface and mineral estates will be exchanged on both the offered and selected lands.

(2) The selected lands will be subject to all valid existing rights.

(3) A right-of-way will be reserved in the selected lands for ditches and canals constructed by the authority of the United States of the Act of August 30, 1890 (43 U.S.C. 945; 28 Stat. 391).

(4) Oil and gas lease U-35853 on the selected land, dated February 1, 1977, held by various parties as outlined in the environmental assessment, shall be reserved to the United States for the duration of the lease.

(5) The publication of this Notice in the Federal Register will segregate the public land described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws.

As provided by the regulations in 43 CFR 2201.1(b) any subsequently tendered application, allowance of which is discretionary, shall not be accepted or considered as filed, and shall be returned to the applicant.

(6) An oil and gas lease on the offered land, dated August 18, 1981, to Lab Energy, shall be reserved to Ray G. and Maree Joy Sagers for the duration of the lease.

Detailed information concerning the exchange, including the environmental assessment, is available for review at the Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Salt Lake District, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: November 22, 1985.

Frank W. Snell,

District Manager.

[FR Doc. 85-28505 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-DQ-M

#### [AA-50578 and AA-8650-B]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be

issued to Belkofski Corporation for approximately 303 acres. The lands involved are in the vicinity of Belkofski, Alaska.

Seward Meridian, Alaska

T. 57 S., R. 83 W. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the ALEUTIAN EAGLE. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until January 2, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-28570 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-JA-M

#### Notice of 30-day Comment Period on Draft Environmental Assessment, San Rafael Reef Wilderness Study Area, Utah

November 26, 1985.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of 30-day comment period on Draft Environmental Assessment analyzing impacts of a water impoundment project, located within the San Rafael Reef Wilderness Study Area (WSA #UT-060-029A), Utah.

**SUPPLEMENTARY INFORMATION:** The operators proposed to construct a reservoir approximately 100' x 100' x 20' in the Black Dragon allotment. The proposed reservoir will be in a rocky section of a wash. Excavation will be done with blasting powder. Heavy equipment will be used to clean out the hole. If the operation is successful the operators may want to haul water to other locations, requiring improvements for a water hauling road. The proposal area is located within: Salt Lake Base

and Meridian, Township 22 South, Range 12 East, Section 34.

A draft environmental assessment has been written to analyze the impacts from the proposed action and alternatives. For a period of 30 days from the date of publication of the notice, interested parties may comment on the proposal.

#### Legal Authority

Federal Land Policy and Management Act of 1976, section 603 (90 Stat. 2785, 43 U.S.C. 1782) and Interim Management Policy.

#### WSA Name

San Rafael Reef (UT-060-029A).

**FOR FURTHER INFORMATION CONTACT:** David Orr, Area Range Specialist, or Terry Humphrey, Area Recreation Specialist, 801-637-4584, Bureau of Land Management, P.O. Drawer AB, Price, Utah 84501.

Dated: November 26, 1985.

Gene Nodine,

*District Manager.*

[FR Doc. 85-28771 Filed 11-29-85; 10:36 am]

BILLING CODE 4310-DQ-M

#### Notice of 15-day Comment Extension on Draft Environmental Assessment, San Rafael Reef Study Area, Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of 15-day comment period extension on Draft Environmental Assessment analyzing impacts of the change of kind of livestock from sheep to cattle, located within the San Rafael Reef Wilderness Study Area (WSA) #UT-060-029A, Utah.

**SUPPLEMENTARY INFORMATION:** See Federal Register Volume 50, Number 211, dated October 31, 1985, page 45500. The comment period is extended 15 days, and will end on December 15.

**FOR FURTHER INFORMATION CONTACT:** Mary Beth Stultz, Range Specialist, or Terry Humphrey, Area Recreation Specialist, 801-637-4584, Bureau of Land Management, P.O. Drawer AB, Price, Utah 84501.

Dated: November 27, 1985.

Gene Nodine,

*Moab District Manager.*

[FR Doc. 85-28772 Filed 11-29-85; 10:37 am]

BILLING CODE 4310-DQ-M

#### Bureau of Reclamation

##### Kellogg Unit Reformulation Study, California; Intent To Prepare an Environmental Statement and To Conduct a Scoping Meeting

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an integrated Planning Report/Environmental Statement (PR/ES) and hold a scoping meeting for the Kellogg Unit Reformulation Study, Contra Costa, California.

The purpose of the proposed project is to provide the Contra Costa Water District (CCWD) with water of higher quality than it currently receives. The intake of CCWD's Contra Costa Canal is subject to periods of saltwater intrusion especially during times of low flows in the Sacramento-San Joaquin Delta. The PR/ES will address the impacts of several alternatives for relocating the Contra Costa Canal intake to other points in the Sacramento-San Joaquin Delta that would provide higher quality water for CCWD. The PR/ES will also provide information on Los Vaqueros and Kellogg Reservoirs and explain how they relate to the intake relocation. These reservoirs, while not currently believed to be feasible, have potential to be integrated with the intake relocation at a future time.

Other environmental review and consultation requirements will be met concurrently with the NEPA process. These include applicable requirements of the Clean Water Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Endangered Species Act, and Executive Orders 11988 and 11990 regarding floodplains and wetlands.

The Bureau of Reclamation will hold a scoping meeting in Concord, California on December 16, 1985, at 7:00 p.m. The meeting will be held at the Contra Costa Water District offices at 1331 Concord Avenue. The scoping meeting, which will be in a workshop format, is intended to solicit public input to determine significant issues, potential environmental effects and other information related to the proposed project. Those persons wishing to provide further input should do so in writing by December 30, 1985, to the Bureau of Reclamation at the address provided below.

Interested public entities and

individuals may obtain information on the proposed project by contacting Richard Johnson, Bureau of Reclamation, Attention: MP-720, 2800 Cottage Way, Sacramento, California 95825-1898, telephone (916) 978-4957.

Dated: November 25, 1985.

Clifford I. Barrett,

*Acting Commissioner.*

[FR Doc. 85-28530 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-09-M

#### National Park Service

##### Fort Washington, MD; Piscataway Park, Fort Washington Marina Availability of Finding of No Significant Impact for the Development Concept Plan

The National Park Service has prepared the Finding of No Significant Impact for the Fort Washington Marina Development Concept Plan. This record documents the selected course of action for the management and use of the marina.

Written comments will be accepted for a period of 30-days following the publication of this notice and should be addressed to the Superintendent, National Capital Parks-East, 1900 Anacostia Drive SE., Washington, DC 20020.

Copies of the Finding of No Significant Impact are available from: National Capital Parks-East, 1900 Anacostia Dr. SE., Washington, DC 20020.

Dated: November 22, 1985.

Manus J. Fish, Jr.,

*Regional Director, National Capital Region.*

[FR Doc. 85-29485 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-70-M

#### Minerals Management Service

##### Royalty Reporting and Payment Requirements for Oil and Gas Subject to the "Blanchard Decision"

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of change to royalty calculation methodology on federal and Indian leases subject to the Blanchard decision.

**SUMMARY:** The Minerals Management Service (MMS) provides notice through Addendum 8 to the Auditing and Financial System (AFS) Payor Handbook, of a change in required

royalty calculation methodology for production from Federal and Indian oil and gas leases committed to unitization and communitization agreements in the State of Oklahoma. The change will require lessees, or their designated payors, to follow standard Federal procedures for calculating and reporting royalties due on production allocated to oil and gas leases subject to pooling agreements.

**DATES:** The effective date of the change in royalty calculation methodology is November 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dennis Whitcomb, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, MS 626, Bldg. 85, Denver Federal Center, Denver, Colorado 80225, (303) 231-3432, (FTS) 326-3432.

**SUPPLEMENTARY INFORMATION:** Addendum No. 8 to the AFS Payor Handbook of the MMS will modify current royalty calculation and reporting requirements for production from Federal and Indian oil and gas leases committed to unitization or communitization agreements within the State of Oklahoma. The AFS Payor Handbook contains specific requirements currently followed by payors in calculating and reporting royalties on Federal and Indian oil and gas leases subject to the so-called "Blanchard Decision" (*Shell Oil Company, et al. v. Corporation Commission of Oklahoma, et al.*, 389 P2d 951 (1963)). Oklahoma Senate Bill 160 (S.B. 160) was signed by the Governor on June 7, 1985, to become effective on October 17, 1985. S.B. 160 effectively replaces Blanchard Decision requirements used in calculation and payment of royalties in Oklahoma. Consequently, the MMS is discontinuing the "Blanchard Decision" requirements of its AFS Payor Handbook. Effective with the production month of November 1985, for royalty payments due December 31, 1985, payors for Federal and Indian oil and gas leases committed to unitization and communitization agreements within the State of Oklahoma are to follow the standard Federal procedures as outlined in the AFS Payor Handbook for reporting royalties due on production allocated to each lease under a pooling agreement.

Dated: November 25, 1985.

Wm. D. Bottenberg,

Director, Minerals Management Service.

[FR Doc. 85-28587 Filed 11-29-85; 8:45 am]

BILLING CODE 4310-MR-M

## INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-251-253 (Final)]

### Certain Welded Carbon Steel Pipes and Tubes From India, Taiwan, and Turkey

#### Correction

In FR Doc. 85-27120 beginning on page 47125 in the issue of Thursday, November 14, 1985, the docket numbers in the heading of the document should have read as set forth above.

BILLING CODE 1505-01-M

## INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30698 (Sub-1)]

### Burlington Northern Railroad Co.; Trackage Rights; Missouri-Kansas-Texas Railroad Co.; Exemption

Missouri-Kansas-Texas Railroad Company has agreed to grant overhead trackage rights to Burlington Northern Railroad Company between Galena, KS and Horn, MO, and ancillary trackage rights at Military, KS. The trackage rights will be effective on November 18, 1985.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: November 25, 1985.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-28511 Filed 11-29-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-275)]

### Burlington Northern Railroad Co.; Abandonment in Mississippi County, AR; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 2.46-mile rail line between Blytheville (milepost 237.31) and the end of track (milepost 239.77) in Mississippi County, AR. The abandonment certificate will become effective 30 days after this publication 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 publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Secretary.

[FR Doc. 85-28512 Filed 11-29-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-262 (Sub-1X)]

### Norfolk and Portsmouth Belt Line Railroad Co.; Abandonment Exemption—at Chesapeake, VA; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its .907-mile line of railroad between Station 201+97.5, and Station 249+85 in Chesapeake, VA.

Applicant 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, 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 any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee 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 January 1, 1986 (unless stayed pending reconsideration). Petitions to stay must be filed by December 12, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 23, 1985, 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: Anthony M. Thiel, Willcox & Savage, P.C., 1800 Sovran Center, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, 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 21, 1985.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-28510 Filed 11-29-85; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### Petition To Classify Status of Alien Relative for Issuance of Immigrant Visa, Form I-130; Petition To Classify Status of Alien Fiance or Fiancee for Issuance of Nonimmigrant Visa, Form I-129F; Revised Edition

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of planned form revision.

**FOR FURTHER INFORMATION CONTACT:** Thomas E. Cook, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536. Telephone: (202) 633-5014.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that under the authority of sections 204 and 214 of the Immigration and Nationality Act, photographs and completed Form G-325A's without signature will be required for both petitioner and beneficiary on Form I-130 spouse petitions and Form I-129F fiance(e) petitions, effective with the distribution of the new forms in the last part of calendar year 1985 or early 1986.

One of the Commissioner's priorities for 1985 was to improve the image of the Service. Under this priority a task was identified to revise "public use" forms for ease of use by the public. Another 1985 priority was to develop antifraud strategies to combat abuse in the petition process for benefits under the law.

Several forms have been redesigned to improve appearance and readability, provide a logical sequence of questions, clarify and simplify instructions, meet requirements of operations, ensure compatibility with automated systems and standardize format and instructions. It is anticipated that these revisions will assist the Service by enabling the public

to complete forms with fewer inquiries and decrease the number of submissions which are returned due to incomplete or inaccurate information. The new designs will also assist in visual reviews by Service personnel and data entry into new automated systems.

The problem of fraud was addressed in the redesign criteria. In the past few years fraud has become a pervasive problem for the Service. In general the current political, social and economic unrest in many countries has increasingly contributed to the threat fraud poses to the integrity of lawful immigration procedures. The freedoms, stability, opportunities, and benefits afforded individuals in the United States create an attraction for many aliens, which fosters fraud as an avenue for immigration. To combat this abuse, additional supporting documents will be required to help stem ever-increasing numbers of individuals who feign legitimate family ties to obtain resident status in the United States.

Sections 204 and 214 of the Immigration and Nationality Act, as amended, provide that a petition shall contain such information and be supported by such documentary evidence as the Attorney General may require. Effective upon distribution of revised Forms I-130 and I-129F, a color photograph of the petitioner and one of the beneficiary of I-130 spouse petitions (retitled Petition for Alien Relative) and fiance(e) I-129F petitions (retitled Petition for Alien Fiance(e)) will be required. In addition, a form G-325A (Biographic Information) for both petitioner and beneficiary will also be required. This additional information will provide the Service with the ability to better detect fraud, and in the opinion of the Service will not be an unfair burden on the public.

The distribution of the revised forms is planned for the latter part of 1985 or early 1986, based on the current printing schedule. It is anticipated that there will be instructions to all Service offices allowing a six-month grace period on the new requirements for applicants using the old form. After the grace period has expired only the revised forms will be accepted.

Dated: November 25, 1985.

Richard E. Norton,

Acting Associate Commissioner,  
Examinations, Immigration and  
Naturalization Service.

[FR Doc. 85-28567 Filed 11-29-85; 8:45 am]

BILLING CODE 4410-10-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes a notice at least once monthly of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

**DATE:** Comments must be received in writing on or before January 31, 1986.

**ADDRESS:** Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency. Copies of the schedules are also available for public inspection during the comment period at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC 20408.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

The monthly public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

#### Schedules Pending Approval

1. U.S. Department of Agriculture, Forest Service (NC1-95-85-3). Correspondence, case files, and reports relating to administrative appeals and litigation.
2. Department of the Air Force, Directorate of Administration (N1-AFU-86-2). Air Traffic Control Records.
3. Department of the Air Force, Directorate of Administration, HQ USAF (N1-AFU-86-10). Certain base fire protection records.
4. Department of the Air Force, Directorate of Administration, HQ USAF (N1-AFU-86-11). Annual reports prepared by Air Force libraries.
5. Department of the Army, Office of Records Management Operations (NC1-AU-85-48). Commitment document files, including records and forms used to effect the requisition of supplies and services.
6. Environmental Protection Agency, Environmental Services Division, Regional Offices (NC1-412-85-21). Records relating to the monitoring of environmental programs in the regions.
7. Department of Health and Human Services, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration (N1-90-86-2). Block grant case files, including applications, approval and award documents, financial records, reports, correspondence, and related papers.
8. Department of Health and Human Services, Office of Human Development Services (NC1-439-85-1). Records relating to the administration of grants, budget formulation, conferences and workshops, and congressional hearings.
9. Department of the Interior, Mineral Management Service (N1-57-86-1). Records relating to enforcement of the Connally Act.
10. National Archives and Records Administration (N2-330-86-1). Two computer tapes containing duplicate data of hostile and nonhostile deaths of U.S. Army personnel in Viet Nam.
11. Panama Canal Commission, Administrative Services Division (NC1-

185-85-1). Canal Zone vehicle, motorboat, launch registration records and motor vehicle proof of registration records, 1970-79.

12. Panama Canal Commission, Administrative Services Branch (N1-185-86-1). Two original 16mm films on the 1976 bicentennial celebration in the Canal Zone.

13. Department of Transportation, Federal Aviation Administration (NC1-237-85-1). Correspondence and case files of the aircraft loan guarantee program.

14. Veterans Administration, Department of Veterans Benefits (NC1-15-85-8). Educational Institution and Training Establishment records.

Dated: November 25, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-28486 Filed 11-29-85; 8:45 am]

BILLING CODE 7515-01-M

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

##### Institute of Museum Services; Information Collection

**SUMMARY:** The Institute of Museum Services (IMS) has submitted the following collections requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Copies of these submissions are available at IMS from Theresa Michel, Public Affairs Officer, (202) 786-0536. Send comments to Joe Lackey, Office of Management and Budget, Room 3208, NEOB, Washington, DC 20503.

Title: Conservation Project Support Final Report Form

Action: New Collection

Respondents: Non-Profit Institutions

Estimated Annual Burden Hours: 250

Respondents, 250 Hours.

Title: Conservation Project Support

Interim Report Form

Action: New Collection

Respondents: Non-Profit Institutions

Estimated Annual Burden Hours: 250

Respondents, 250 Hours.

Monika Edwards Harrison,

Acting Director, Institute of Museum Services.

[FR Doc. 85-28621 Filed 11-29-85; 8:45 am]

BILLING CODE 7036-01-M

#### NUCLEAR REGULATORY COMMISSION

##### Power Authority of the State of New York; Withdrawal of Application for Amendment to Facility Operating License

[Docket No. 50-333]

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Power Authority of the State of New York (the licensee) to withdraw its November 10, 1983 application for proposed amendment to the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York. The proposed amendment would have revised the provisions in the Technical Specifications regarding installation of Reactor Building Closed Loop Cooling Water System containment isolation valves. The Commission issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on March 22, 1984 (49 FR 10741). By letter dated November 1, 1985, the licensee withdraw its application for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated November 10, 1983; (2) the licensee's letter dated November 1, 1985, withdrawing the application for license amendment; and (3) the Commission's letter granting the withdrawal dated November 20, 1985. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Penfield Library, State University College of Oswego, Oswego, New York.

Dated at Bethesda, Maryland, this 20th day of November 1985.

For the Nuclear Regulatory Commission,  
Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2,  
Division of Licensing.

[FR Doc. 85-28590 Filed 11-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

##### Union Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing; Errata

The next to the last paragraph, third sentence of the subject notice issued on November 6, 1985 (50 FR 46218)



inadvertently left out the word "no". The sentence should have read:

The criticality cell calculations assumed that the fuel pool water contained no boric acid.

Dated at Bethesda, Maryland, this 22nd day of November 1985.

For the Nuclear Regulatory Commission,  
B.J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-28589 Filed 11-29-85; 8:45 am]

BILLING CODE 7590-01-M

### Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on December 5-7, 1985, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the *Federal Register* on November 19, 1985. This revised meeting notice covers changes in agenda items and the schedule for the meeting based on several topics which are being deferred until a subsequent ACRS meeting.

The revised agenda for the subject meeting will be as follows:

#### Thursday, December 5, 1985

**8:30 A.M.-8:45 A.M.: Report of ACRS Chairman (Open)**—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

**8:45 A.M.-10:00 A.M.: Operator Licensing Requirements (Open)**—The members will hear and discuss the report of its subcommittee and representatives of the NRC Staff regarding proposed revisions of 10 CFR Part 55, Operators' Licenses.

**10:15 A.M.-12:15 P.M.: General Electric Standard Safety Analysis Report (GESSAR II) (Open/Closed)**—Discuss proposed ACRS reports regarding the request for an FDA for this type facility.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and detailed arrangements regarding security provisions for this type facility.

**1:15 P.M.-2:00 P.M.: Future ACRS Activities (Open)**—Discuss anticipated activities of ACRS subcommittees and proposed items for consideration by the full Committee.

**2:00 P.M.-5:15 P.M.: Millstone Nuclear Power Station, Unit 1 (Open/Closed)**—The members will consider the request

of the licensee for a full term operating license for this facility.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility and detailed security arrangements for this facility.

#### Friday, December 6, 1985

**8:00 A.M.-8:30 A.M.: ACRS Annual Report to the U.S. Congress on the NRC Proposed Safety Research Program and Budget for FY 1987 (Open)**—The members will discuss the scope and format for this report.

**8:30 A.M.-10:15 A.M.: Qualification of Reactor Operators (Open)**—Discuss proposed ACRS comments regarding the adequacy of the NRC reactor qualification program. Representatives of the NRC Staff will participate, as appropriate.

**10:15 A.M.-12:00 Noon: Prioritization of New Generic Issues (Open)**—Discuss proposed ACRS comments regarding the priorities proposed by the NRC Staff for resolution of new unresolved generic issues. Members of the NRC Staff will participate, as appropriate.

**1:00 P.M.-2:30 P.M.: General Electric Standard Safety Analysis Report (GESSAR II) (Open/Closed)**

The members will continue discussion of proposed ACRS reports regarding the request for an FDA for this type nuclear facility.

Portions of this session will be closed to discuss Proprietary Information applicable to this facility design and detailed arrangements for security provisions for this type of nuclear plant.

**2:30 P.M.-3:30 P.M.: Decay Heat Removal (Open)**—The members will hear and discuss a status report regarding the NRR resolution effort for USI A-45, Shutdown Decay Heat Removal Requirements.

**3:30 P.M.-5:15 P.M.: Quantitative Safety Goals (Open)**—The members will hear and discuss the report of its subcommittee regarding the evaluation and implementation of proposed quantitative safety goals for the regulation of nuclear power plants.

**5:15 P.M.-6:15 P.M.: State of Nuclear Reactor Safety (Open)**—The members of the Committee will hear and discuss the report of its subcommittee on the state of nuclear power plant safety and will consider proposed ACRS comments regarding this matter.

**6:15 P.M.-7:00 P.M.: Preparation of ACRS Reports (Open/Closed)**—The members will discuss proposed reports to the NRC regarding matters considered during this meeting and topics carried over from the 307th ACRS Meeting, including proposed operation of the Palo Verde Nuclear Generating Station, Units

1, 2, and 3; methods used for selection of reactor operators; and recent incidents which have occurred at operating nuclear power plants.

Portions of this session will be closed as necessary to discuss Proprietary Information and detailed security provisions for the specific facilities being discussed.

#### Saturday, December 7, 1985

**8:30 A.M.-8:45 A.M.: Election of ACRS Officers (Closed)**—The members will discuss the qualifications and commitments of candidates proposed as ACRS Officers during CY 1986.

This portion of the meeting will be closed to discuss information the release of which would represent an unwarranted invasion of personal privacy.

**8:45 A.M.-12:30 P.M. and 1:30 P.M.-2:30 P.M.: ACRS Reports to NRC (Open/Closed)**—The members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting as well as topics considered but not completed during the 307th ACRS meeting which was held on November 7-9, 1985. This includes ACRS comments regarding reactor operations, the technical basis for estimating source terms and the definition of high-level waste.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed and detailed security arrangements for the facilities being considered.

**2:30 P.M.-3:30 P.M.: ACRS Subcommittee Activities (Open)**—Chairman and members of designated ACRS subcommittees will report on the status of related activities including the NRC radwaste program and radwaste management, water chemistry control in boiling water reactors, and long-range NRC planning.

Procedures for the conduct of and participation in ACRS meetings were published in the *Federal Register* on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion

picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), detailed security information (5 U.S.C. 552b(c)(3)), and information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M.

Dated: November 26, 1985.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 85-28585 Filed 11-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-387-388]

**Pennsylvania Power and Light Co.;  
Susquehanna Steam Electric Station,  
Units 1 and 2; Environmental  
Assessment and Finding of No  
Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an Exemption to 10 CFR 50, Appendix A, Criterion 17 for Facility Operating License Nos. NPF-14 and NPF-22, issued to the Pennsylvania Power and Light Company (the licensee), for operation of the Susquehanna Steam Electric Station, Unit 1 and Unit 2, located in Luzerne County, Pennsylvania.

**Environmental Assessment**

*Identification of Proposed Action:*

This Exemption would suspend the requirement to comply with the single failure criteria for onsite electric power supplies as stated in 10 CFR 50,

Appendix A, Criterion 17 upon commencement of the fifth diesel generator tie-in work until completion of this work which is not to exceed 60 days in the Limiting Condition of Operation (LCO) extension.

*The Need for the Proposed Action:* The proposed Exemption from the regulation is required in order to connect control and power circuits from the existing diesel generators to transfer points in the new diesel generator building. This tie-in work requires removing from service the diesel generators, one at a time, for a cumulative period of 60 days. Without this Exemption, a force dual unit shutdown would be required in order to perform the necessary tie-in work.

*Environmental Impacts of the Proposed Action:* There are no environmental impacts of the proposed action. During the extended LCO (a cumulative period of 60 days) the licensee will remove from service, one at a time, an existing diesel generator in order to connect control and power circuits from the existing diesel generators to transfer points in the new diesel generator building. This work will be performed on a diesel generator after the diesel generator has been taken out of service. This work will be completely isolated from the operating plants. The staff has reviewed the proposed design changes and procedures for the tie-in of the fifth diesel generator and finds that this tie-in work will not impact plant operation. No changes are being made in the allowable amounts and no significant changes in the types, of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Should a release occur during the extended LCO it would not be greater than any release contemplated during the normal allowable LCO. Additionally, with one diesel out of service for tie-in work, the three remaining diesels are capable of shutting down both units in the event of a loss of offsite power coincident with a LOCA in one of the units. There is nothing in the proposed change that would suggest that the probability of release would be significantly increased. Further, the proposed change does not otherwise affect radiological plant effluents, nor any significant occupational exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed Exemption.

*Alternative to the Proposed Action:* Since we have concluded that there is no measurable environmental impact associated with the granting of the

proposed Exemption, any alternative to this exemption will have the same or greater environmental impact.

The principal alternative would be to deny the Exemption which would prohibit operation of both units for a period of 60 days.

*Alternative Use of Resources:* This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement" related to the operation of Susquehanna Steam Electric Station, Units 1 and 2, dated June 1981.

*Agencies and Persons Consulted:* The NRC staff performed the entire review of the licensee's position and did not consult other agencies or persons.

**Findings of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed Exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see Amendment No. 51 to NPF-14 and Amendment No. 19 to NPF-22. These items will be available for public inspection at the Commission Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy may be obtained on request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Walter R. Butler, (301) 492-7435.

Dated at Bethesda, Maryland, this 22nd day of November 1985.

For the Nuclear Regulatory Commission,  
Thomas M. Novak,

Assistant Director for Licensing, Division of  
Licensing, Office of Nuclear Reactor  
Regulation.

[FR Doc. 85-28588 Filed 11-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-440 OL and 50-441 OL]

**Cleveland Electric Illuminating Co., et  
al. (Perry Nuclear Power Plant, Units 1  
and 2); Notice of Oral Argument**

Notice is hereby given that, in accordance with the Appeal Board's order of November 20, 1985, oral argument on the pending appeals of intervenors Ohio Citizens for Responsible Energy and Sunflower Alliance from the Licensing Board's September 3, 1985 Concluding Partial

Initial Decision on Emergency Planning, Hydrogen Control and Diesel Generators will be heard at 9:30 a.m. on Thursday, December 19, 1985, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: November 25, 1985.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 85-28586 Filed 11-29-85; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23921; 70-7176]

### The Columbia Gas System, Inc., et al; Proposed 1986 and 1987 Intercompany Financing, External Short-Term Financing and Money Pool Programs; Exception From Competitive Bidding

November 22, 1985.

The Columbia Gas System, Inc. ("Columbia" and "System", when referred to in connection with its subsidiaries), a registered holding company, and its subsidiaries, Columbia Gas System Service Corporation ("Service"), Columbia LNG Corporation ("Columbia LNG"), Columbia Alaskan Gas Transmission Corporation ("Columbia Alaskan"), Columbia Hydrocarbon Corporation ("Hydrocarbon"), Columbia Coal Gasification Corporation ("Coal Gasification"), The Inland Gas Company ("Inland"), Inc., 20 Montchanin Road, Wilmington, Delaware 19807, Big Marsh Oil Company, Columbia Gas Brokerage Corporation ("Columbia Brokerage"), Columbia Natural Resources, Inc., 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, Columbia Gas of Kentucky, Inc. ("Columbia Kentucky"), Columbia Gas of Ohio, Inc. ("Columbia Ohio"), Columbia Gas of Maryland, Inc. ("Columbia Maryland"), Columbia Gas of New York, Inc. ("Columbia New York"), Columbia Gas of Pennsylvania, Inc. ("Columbia Pennsylvania"), Columbia Gas of Virginia, Inc. ("Columbia Virginia"), 200 Civic Center Drive, Columbus, Ohio 43215, Columbia Gulf Transmission Company ("Columbia Gulf"), 3805 West Alabama Avenue, Houston, Texas 77027, Columbia Gas Development of Canada LTD. ("Columbia Canada"), 639-5th Avenue, S.W., Calgary, Alberta, Canada T2P 0M9, Columbia Gas Development Corporation 5847 San Felipe, Houston, Texas 77057, Commonwealth Gas Pipeline Corporation ("Commonwealth Pipeline"), Commonwealth Gas

Services, Inc. ("Commonwealth Services"), Commonwealth Propane, Inc. ("Commonwealth Propane"), 200 South Third Street, Richmond, Virginia 23219, ("Subsidiaries") have filed an application-declaration with this Commission pursuant to sections 6(b), 9, 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45 and 50(a)(5) thereunder.

The Subsidiaries are engaged in construction programs and gas supply projects which will involve estimated total net capital expenditures of \$280.7 million in 1986 and \$298.1 million in 1987. Columbia Gulf, Development Canada, Commonwealth Pipeline, Hydrocarbon, Inland, and Coal Gasification are financing their 1986 and 1987 capital expenditures entirely from internally generated funds. Columbia Alaskan, Columbia LNG, and Columbia Brokerage contemplates no capital expenditures for the years 1986 and 1987. Columbia Brokerage has previously received Commission authorization for its financing requirements by order dated July 19, 1984 (HCAR No. 23369).

The other subsidiaries plan to finance part of their 1986 and 1987 capital expenditure programs with funds generated from internal sources, and the balance through the sale to Columbia of installment promissory notes ("Installment Notes") up to the amounts indicated below:

[In millions of dollars]

Company	Long-term debt		
	1986	1987	Total
Columbia Kentucky	3.2	2.5	5.7
Columbia Ohio	26.0	22.0	50.0
Columbia Maryland	9	6	1.5
Columbia New York	3.7	2.0	5.7
Columbia Pennsylvania	13.8	12.8	26.6
Columbia Virginia	2.5	1.7	4.2
Development Canada	12.0	22.5	34.5
Commonwealth Services	2.0	2.0	4.0
Commonwealth Propane	2.6	0.2	3.0
Service	.7		.7
Total	69.6	68.3	135.9

The Installment Notes will be unsecured and will be dated the date of their issue, be payable in 15 equal annual installments on January 31 in each of the years from 1986 through 2002 inclusive for Installment Notes issued during 1986 and on January 31 in each of the years from 1989 through 2003 for Installment Notes issued during 1987. The interest rate will be equal to the actual cost of money to Columbia for its most recent sale of long-term debt or preferred stock. Columbia's most recent sale was its Adjustable Rate Cumulative Preferred Stock, Series D sold in July 1983. The dividend rate on the Series D

Preferred Stock is adjusted quarterly (as well as the interest rates on Installment Notes tied thereto) and was 9.75% as of September 1, 1985. All of the Installment Notes will be purchased by Columbia by December 31, 1987.

Installment Notes issued by Development Canada will have the same terms and provisions as described in the preceding paragraph, except that their interest will be due and payable only if and to the extent that it is determined, as of the end of such payment period, that Columbia will be able to reduce its United States consolidated income tax liability for the taxable year by the full amount of any foreign taxes paid or payable by Columbia with respect to such interest.

The Subsidiaries short-term requirements are estimated to be \$362,500,000 from 1986 through 1987 to be funded first from the intrasystem money pool ("Money Pool"), and/or from borrowings from Columbia funded by Commission approved sales of commercial paper or short-term bank loans. Advances are limited as follows, in millions: Columbia Kentucky—\$30,000; Columbia Ohio—\$195,000; Columbia Maryland—\$4,000; Columbia New York—\$12,000; Columbia Pennsylvania \$60,000; Columbia Virginia—\$7,000; Development Canada—\$4,500; Commonwealth Propane—\$5,000; Commonwealth Service—\$9,000; Commonwealth Pipeline \$2,000; Hydrocarbon—\$5,000; Inland—\$12,000; Coal Gasification—\$12,000; and Service—\$5,000. The funds would be advanced, repaid and reborrowed, as required from time to time through 1987. The Subsidiaries cost of money on all such short-term advances will be the composite weighed average effective cost incurred by Columbia on its own short-term transactions.

Columbia's 1986-1987 External Short-Term Financing Program will involve either commercial paper or bank loans not exceeding \$525 million or 30% of secured debt, extending the exemption from 6(a) of the Act as provided by 6(b). Columbia proposes to issue and sell commercial paper in the form of unsecured notes to one or more commercial paper dealers with a right to repurchase and resell, and continue to do so as long as the effective rate on such commercial paper is less than the effective interest cost on bank borrowings, except, that, in order to obtain greater flexibility, commercial paper may be issued with an effective interest cost in excess of the effective interest cost on bank borrowings if the paper has a maturity of not more than 60

days from the date of issue. Commercial paper will be issued in denominations of not less than \$50,000 not more than \$5 million, and will be reoffered by the dealer(s) in non-public offerings. The commercial paper will be sold to the dealer(s) at the then prevailing discount rate for similar commercial paper, and will not be prepayable. The dealer(s) may reoffer the paper at a discount rate of up to 1/4 of 1% per annum less than the rate borne by Columbia as issuer.

Columbia currently has a \$500 million Credit Agreement with a group of banks and \$25 million of confirmed bank lines of credit, and intends to maintain these amounts. The interest rate on short-term bank borrowings under the \$500 million Credit Agreement are based on either the prime rate, Adjusted Certificate of Deposit ("CD") Rate plus 3/4%, or the London Interbank offer rate ("LIBOR") plus 5/8%. Maturities of loans issued under the CD rate option may be 30, 60, or 90 days. Maturities of loans issued under the LIBOR rate option may be 1, 2, 3, or 6 months. In addition, a commitment fee of 1/4% on undrawn amounts is payable quarterly. The interest rate on short-term bank borrowings under the \$25 million confirmed bank line of credit will be negotiated at the time loans are taken, but will not result in borrowing costs of more than the prime rate, in effect from time to time, adjusted for the effect of compensating balances or fees in lieu thereof. Assuming a fee of 3/4% in lieu of compensating balances, and a Prime Rate of 9 1/2%, the effective cost would be 9 3/4%.

It is also proposed that the Money Pool be continued through December 31, 1987. Service would continue to administer the Money Pool and coordinate loans to Subsidiaries in need of such cash. Columbia will not borrow from or lend to the Money Pool or otherwise benefit from the Money Pool.

The daily interest on outstanding Money Pool loans will be the composite weighted average daily cost and/or yield to Columbia for its external short-term borrowing and/or short-term investments, or, if no such borrowings or investments are outstanding, the daily rate published in *The Wall Street Journal* for 30-day commercial paper notes sold through dealers by major corporations. Borrowers would pay interest on amounts borrowed and Lenders would receive interest income on their proportionate contribution in accordance with the above-mentioned pricing mechanism. If cash contributed

by Lenders exceeds Borrowers' needs, the excess will be invested in money market securities.

It is requested that investments pursuant to the Money Pool be authorized to the extent of the aggregate temporary excess cash from time to time, and that borrowings be authorized to the extent of cash available in the Money Pool provided that no Subsidiary may borrow through the Money Pool, or from Columbia directly, any amount in excess of the level of short-term borrowing last approved by the Commission for that Subsidiary.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,  
Secretary.

[FR Doc. 85-28815 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23920; 70-7186]

**The Connecticut Light and Power Co.;  
Western Massachusetts Electric Co.;  
Proposed Pollution Control Financing  
and Exception From Competitive  
Bidding**

November 22, 1985.

The Connecticut Light and Power Company ("CL&P"), Seldon Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, electric utility subsidiaries (the "Companies") of Northeast Utilities, a

registered holding company, have filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

The proposed transactions relate to the financing of each Company's portion of the cost of acquiring, constructing, and installing certain pollution control and/or sewage or solid waste disposal facilities (the "Facilities") at the Millstone 1, Millstone 2, and/or the Millstone 3 nuclear-electric generating plants located in the Town of Waterford, Connecticut. CL&P and WMECO own, respectively, 81% and 19% of Millstone 1, 81% and 19% of Millstone 2, and 52.6115% and 12.2385% of Millstone 3. The Connecticut Development Authority (the "Issuer") intends to issue pollution control revenue bonds (the "Bonds") in the principal amount of not more than \$80,000,000 for CL&P and \$20,000,000 for WMECO, \$100,000,000 in total. The Bonds will be issued under separate CL&P and WMECO Indentures of Trust (the "Indentures") each between the Issuer and a trustee (the "Trustee"). Pursuant to loan agreements between each of CL&P and WMECO and the Issuer (the "Loan Agreement"), the Issuer will loan to CL&P and WMECO the proceeds of the Bonds. CL&P and WMECO will agree to make payments corresponding to the amounts needed to pay the principal of, premium, if any, and interest on the Bonds as they become due. The obligations of each of the Companies to repay its loan will be evidenced by a promissory note (the "Notes"). The proceeds of the Bonds will be deposited with the Trustee. From funds established under the Indentures, each of the Companies will draw the proceeds of the Bonds to pay, or to reimburse itself for, its portion of the cost of acquiring, constructing, and installing the Facilities.

The Bonds will be issued with variable interest rates as floating rate demand bonds and will mature in not more than thirty years from the date of issuance, subject to certain conditions. At the option of the Companies, the interest rates on the Bonds may be converted to a fixed interest rate upon 45 days' notice. The various interest rates on the Bonds, fees, and other charges are described in the declaration. The interest rate on the Bonds will, in no event, exceed 20% per annum. As of October 31, 1985, the interest rates on the floating rate demand bonds issued

by the Issuer in August 1984, March 1985, and September 1985 to provide financing for CL&P and WMECO for other pollution control projects at and adjacent to Millstone 3 averaged 5.38% for CL&P and 5.44% for WMECO (including letter of credit commissions).

Pursuant to the terms of each of the Indentures, each Bondholder will have the option of tendering any even multiple of \$100,000 principal amount of the Bonds for purchase upon at least seven days' prior notice. The Remarketing Agent, upon receiving notice of a Bondholder's intention to present its Bonds for purchase, is obligated to use its best efforts to secure other purchasers of Bonds. If the Remarketing Agent is unsuccessful, the Trustee may draw upon an irrevocable letter of credit to be issued by The Long-Term Credit Bank of Japan, Limited, New York Branch ("Bank") for the funds required to pay the tendering Bondholder. The interest rate with respect to the reimbursement agreement associated with the letter of credit ("Reimbursement Agreement") will be the prime rate if specified conditions are met or the prime rate plus 1% otherwise. So long as the letters of credit remain outstanding, CL&P and WMECO will each be obligated to pay the Bank a letter of credit commission at a rate of 0.45% and 0.60% per annum, respectively. A one-time fee payable at closing equal to 0.10% of the maximum amount available to be drawn under the letter of credit and certain other transfer and drawing fees are also called for under the Reimbursement Agreements. Following conversion to a fixed interest rate, Bondholders will no longer have the right to tender their Bonds for repurchase.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-28616 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23918; 70-6981]

**Middle South Utilities, Inc.; Proposed Extension of Time for the Issuance and Sale of Shares of Common Stock Under Terms of Dividend Reinvestment Plan; Exception From Competitive Bidding**

November 22, 1985.

Middle South Utilities, Inc. ("Middle South"), a registered holding company, filed a post-effective amendment to its declaration in this proceeding with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

Middle South permits holders of record and certain beneficial owners of its Common Stock, \$5 par value ("Common Stock") and of the preferred stocks ("Preferred Stock") of Middle South's principal operating subsidiaries, Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service Inc., along with eligible employees, to participate in Middle South's Dividend Reinvestment and Stock Plan ("Plan"). Participants in the Plan may have dividends on all, or on less than all, of their shares of Common Stock and/or Preferred Stock, as well as optional cash payments, invested in the purchase of additional shares of Common Stock (HCAR No. 22718, November 18, 1982).

The price per share for purchases made through reinvestment of cash dividends on shares of Common Stock or cash dividends on shares of Preferred Stock, on any day on which purchases are made under the Plan, is equal to ninety-five percent (95%) of the average of the daily high and low sale prices of the Common Stock, based on consolidated trading of the Common Stock as defined by the Consolidated Tape Association and reported as part of the consolidated trading prices of New York Stock Exchange listed securities, for the period of the last three days on which Common Stock was traded immediately preceding the applicable investment date. The price per share for purchases made through investment of cash payments is equal to 100% of such average. No shares of Common Stock will be sold under the Plan at less than the par value of such

shares. Participants in the Plan pay no brokerage commission or service charge.

By subsequent order dated June 29, 1984 (HCAR No. 23354), the Commission authorized Middle South to issue and sell an additional 15 million shares of its Common Stock, \$5 par value ("Additional Common Stock"), pursuant to the terms of the Plan, as amended and restated, through December 31, 1985. Of the 15 million shares of Additional Common Stock, 10,371,503 shares have been issued and sold under the Plan to date, leaving 4,628,497 shares remaining to be issued ("Remaining Common Stock").

It is currently expected that the Remaining Common Stock will be sufficient to meet the requirements of the Plan through December 31, 1986. Accordingly, Middle South now proposes that the period during which it may issue and sell the Remaining Common Stock pursuant to the Plan be extended through December 31, 1986.

Middle South proposes to apply the net proceeds toward the reduction of then outstanding bank loans made to Middle South pursuant to the Revolving Credit Agreement between Middle South and various commercial banks, dated June 27, 1980, to the purchase of common stock from Middle South's subsidiaries and for other corporate purposes.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-28617 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No.35-23922; 70-7177]

**National Fuel Gas, et al.; Proposed Intra-System Borrowing Arrangements, Issuance and Sale of Commercial Paper and Short-Term Unsecured Notes; Exception From Competitive Bidding**

November 25, 1985.

National Fuel Gas Company ("National") 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and its subsidiaries, National Fuel Gas Distribution ("Distribution"), National Fuel Gas Supply Corporation ("Supply"), Penn-York Energy Corporation ("Penn-York"), Empire Exploration Inc. ("Empire") 10 Lafayette Square, Buffalo, New York, 14203, and Seneca Resources Corporation ("Seneca") Capital Bank Plaza, 333 Clay Street, Suite 4150, Houston, Texas 77002, have filed with this Commission an application-declaration subject to sections 6(a), 7, 9(a), 10, 12(b), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rules 42(b)(2), 43, 45, 50(a)(2), and 50(a)(5) thereunder.

By orders dated February 2, 1981 (HCAR No. 21903), December 31, 1981 (HCAR No. 22351), November 22, 1982 (HCAR No. 22722), December 30, 1983 (HCAR No. 23191), and February 12, 1985 (HCAR No. 23598), applicants-declarants were authorized to participate in a system money pool through December 31, 1985. The procedures for borrowing from and lending to the pool are set forth in those orders. Applicants-declarants now propose that they continue to participate in the pool. Total outstanding short-term borrowings through the money pool will not exceed \$150 million for Distribution, \$125 million for Supply, \$140 million for Seneca, \$20 million for Empire, and \$20 million for Penn-York.

If intrasystem sources of funds are insufficient to meet short-term loan needs National proposes to issue and sell unsecured notes to certain banks and/or commercial paper to Merrill Lynch Money Market, Inc. ("Dealer") up to an aggregate principal amount at any one time outstanding, in compliance with National's Restated Certificate of Incorporation, which as of August 31, 1985, would equal \$355,875,000. The maximum principal amount of unsecured debt that the system may have outstanding at any one time is limited to 25% of the consolidated capitalization of the system pursuant to a restriction in National's Certificate.

National proposes to issue and sell, from January 1, 1986 through December 31, 1987, up to \$80 million aggregate

principal amount at anyone time outstanding of its commercial paper to the Dealer and/or short-term unsecured notes to Chase Manhattan Bank, N.A. Commercial paper will have varying maturities not to exceed nine months and will not be prepayable prior to maturity. No commission will be payable, however, the Dealer will reoffer and sell the commercial paper to a limited, defined group of buyers at a discount rate of  $\frac{1}{8}$  of 1% per annum less than the prevailing discount rate for the Dealer to National.

Each unsecured note will mature not later than 12 months from the date of issue and will be prepayable at any time, in whole or in part, without penalty or premium. The notes will bear interest at the prime rate at each individual bank.

Costs, in the form of compensating balances or commitment fees, may be incurred to support the line of credit. The aggregate of the operating balances of National, Distribution, Supply, Penn-York, Empire, and Seneca are expected to cover these amounts. Assuming National borrowed the full amount under each line of credit, and compensating balance of 10% under each line was required, the effective cost of money, based on a 9.5% prime rate, would be 11.67%. Initially, the cost of compensating balances and commitment fees will be allocated to the participating subsidiaries on the basis of 37% to Distribution, 31% to Seneca, 22% to Supply, 5% to Penn-York and 5% to Empire. At the end of the calendar year costs will be retroactively reallocated among the subsidiaries to reflect the maximum outstanding short-term borrowings of each subsidiary.

In addition to the lines of credit, certain of the banks may have funds available to lend National at fixed rates below the existing prime rate for short periods of time (1-180 days), depending upon market conditions. National may repay existing notes outstanding at the prime rate with funds borrowed at the lower fixed rate. Since the 1-180 day notes are not prepayable, National will not utilize such notes unless it needs the funds for at least the maturity of the notes.

National requests that the sale of its commercial paper be excepted from the requirements of Rule 50 pursuant to subparagraph (a)(5) since the notes will have maturities not to exceed nine months, will be issued to a limited defined group of buyers, interest costs will not exceed the cost of equivalent borrowings from Chase, and the rate for commercial paper for prime issuers such as National are ascertainable by reference to daily publications.

The proposal and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 19, 1985, to Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-28618, filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23917; (70-7033, 31-809) Administrative Proceeding File No. 3-6588]

**South Jersey Industries, Inc.; Order for Hearings on Proposed Acquisition of Utility Securities and on Application of Declaratory Order**

On January 31, 1985, the Commission issued a notice (HCAR No. 23586) of an application (the "Section 10 Application") pursuant to section 9(a)(2) and 10 of the Act filed by South Jersey Industries, Inc. ("South Jersey"), One South Jersey Plaza, Route 54, Folsom, New Jersey 08037, a New Jersey corporation and an exempt holding company under section 3(a)(1) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 2 thereunder.

That application requests Commission approval of South Jersey's proposed acquisition of common stock of Chesapeake Utilities Corporation ("Chesapeake"), a Delaware gas utility company, in amounts that could result in South Jersey becoming an affiliate of Chesapeake or Chesapeake becoming a subsidiary of South Jersey under the Act. Currently, South Jersey owns 51,000 shares or approximately 4.9% of Chesapeake's outstanding common stock. On November 16, 1984, Chesapeake filed a request for a hearing on the Section 10 Application with the Commission, contending that the

proposed acquisition would be to the detriment of its consumers, and would not tend toward the economic and efficient development of an integrated public-utility system, and thus would not meet the standard for approval set forth in Section 10 of the Act. Chesapeake also contends that consummation of the proposed transaction would render South Jersey ineligible for the exemption it presently holds pursuant to section 3(a)(1) of the Act and Rule 2 thereunder.

On March 20, 1985, the Commission issued a notice (Holding Company Act Release No. 23635) of an application (the "Section 3(a)(1) Application") filed by South Jersey requesting an order pursuant to section 3(a)(1) of the Act and section 5(d) of the Administrative Procedure Act ("APA"), 5 U.S.C. 554(e), declaring that South Jersey will retain its eligibility for its exemption under section 3(a)(1) of the Act and Rule 2 thereunder if its proposed acquisition of Chesapeake's common stock is approved, and South Jersey then acquires sufficient stock either to cause Chesapeake to become a subsidiary company of South Jersey pursuant to section 2(a)(8)(A) of the Act, or to control Chesapeake.

On April 4, 1985, Chesapeake filed a request for a hearing on the section 3(a)(1) Application with the Commission, contending that after consummation of the proposed transaction, South Jersey would derive "a material part of its income" from Chesapeake and would as a result no longer be eligible for its exemption under section 3(a)(1) of the Act and Rule 2 thereunder.

It appears to the Commission that it is appropriate in the public interest that hearings be held with respect to both Applications. Accordingly,

It is ordered, pursuant to Section 19 of the Act, that a hearing on the Applications under the applicable provisions of the Act and the Rules of the Commission be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice (17 CFR 201.6), and that an Administrative Law Judge to be designated by further order preside at said hearing. Any person, other than South Jersey, desiring to be heard or otherwise wishing to participate in those proceedings is directed to file with the Secretary of the Commission, on or before December 19, 1985, an application as provided by Rule 9 of the Commission's Rules of Practice (17 CFR 201.9), setting forth the nature and extent of his interest in the proceeding and any issues which he deems raised by this Notice and Order or by said application. A copy of that request shall

be served personally upon South Jersey at the address noted above, and proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing, and any adjournments thereof, as well as of other actions of the Commission involving the subject matter of this proceeding.

It is further ordered that Chesapeake's motions to intervene, filed with its requests for hearings, are hereby denied, without prejudice to Chesapeake's filing an application to participate in the proceedings pursuant to Rule 9 of the Commission's Rules of Practice, as provided above.

The Division of Investment Management has advised the Commission that it has made an examination of the Applications, the requests for hearings, and the responses to those requests by South Jersey and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to the Commission's specifying additional matters and questions upon further examination:

(1) Whether the proposed acquisition would tend towards interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interests of investors or consumers;

(2) whether the consideration including all fees, commissions, and other remuneration, to be given, directly or indirectly, in connection with the proposed acquisition is reasonable and bears a fair relation to the sums invested in or the earnings capacity of the utility assets underlying the securities to be acquired;

(3) whether the proposed acquisition would unduly complicate the capital structure of the holding-company system of South Jersey or will be detrimental to the public interest or the interest of investors or consumers or the proper functioning of such holding-company system;

(4) whether the proposed acquisition is detrimental to the carrying out of the provisions of section 11;

(5) whether the proposed acquisition would serve the public interest by tending towards the economical and efficient development of an integrated public-utility system;

(6) whether such state laws as may apply to the proposed acquisition have been complied with; and

(7) whether, if South Jersey acquires Chesapeake, the resulting holding

company, and every public utility subsidiary thereof from which South Jersey derives, directly or indirectly, a material part of its income, will be predominantly intrastate in character, and carry on their business substantially in a single state in which South Jersey and every such subsidiary company are organized.

It is further ordered that in the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered that the Division of Investment Management shall be a party to the proceedings.

It is further ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this Notice and Order by certified mail to South Jersey at the address noted above and to Chesapeake; that notice to all other persons be given by publication of this Notice and Order in the *Federal Register*; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

Dated: November 22, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-28619 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23919; 70-7182]

**System Fuels, Inc., et al.; Proposed Borrowings by Fuel Procurement Subsidiary From Its Public-Utility Parent Companies**

November 22, 1985.

System Fuels, Inc. ("SFT"), One Poydras Plaza, 639 Loyola Avenue, New Orleans, Louisiana 70113, a fuel procurement subsidiary of Arkansas Power & Light Company ("AP&L"), First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company ("MP&L"), Electric Building, Jackson, Mississippi 39205, and New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans Louisiana 70112 (collectively the "Operating Companies"), each a subsidiary of Middle South Utilities, Inc., a registered holding company, and the Operating Companies have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Public Utility Holding Company Act of 1935 ("Act")

and Rules 45, 90, and 91 promulgated thereunder.

SFI intends to enter into an amendment to the loan agreement with the Operating Companies pursuant to which SFI would be authorized to make borrowings from the Operating Companies which will mature on December 31, 2011. The borrowings will be made from time to time from January 1, 1986, through December 31, 1986, in an aggregate amount not to exceed, at any one time outstanding, the sum of \$56,000,000 and the amount to be outstanding at December 31, 1985, under the loan agreement, currently estimated to be \$21,000,000, which amount will be converted into loans under the Loan Agreement. Such proposed borrowings would be in addition to the \$10,000,000 of outstanding borrowings authorized in File No. 70-5941 and in addition to the \$98,000,000 of outstanding borrowings authorized in File No. 70-6097.

The Operating Companies' commitments are: AP&L—\$24,149,000, LP&L—\$34,371,000, MP&L—\$11,550,000, and NPSI—\$6,930,000. The commitment of each company is equal to the same proportion of the total commitments as its kilowatt-hour sales for the twelve months ended September 30, 1985, bear to the total kilowatt-hour sales of the Operating Companies for that period. Each note will bear interest on the unpaid principal balance thereof, adjustable monthly, at an annual rate for such month equal to the annual rate of interest borne on the last day of the preceding month by the short-term bank borrowings of the Operating Company to which such note has been issued. If, on the last day of any month, such Operating Company does not have any short-term bank borrowings outstanding, the prime commercial rate will apply.

SFI also requests that the following authorization be extended during 1988:

- 1) The Operating Companies, in connection with a transaction or transactions in the ordinary course of SFI's fuel supply business and not involving the issuance of a security, to assure any party contracting with SFI that the Operating Companies will, in accordance with their respective shares of ownership of the common stock of SFI, take such action as may be appropriate from time to time to keep SFI in a sound financial condition so that it may discharge its obligations under the particular contract or contracts; and
- 2) To have personnel employed by the other companies in the Middle South system perform services for SFI at cost where it is more

economical and efficient for such personnel to perform such services.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-28620 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14811; File No. 812-6160]

#### BHP Finance (USA) Inc.; Application for Order

November 25, 1985.

Notice is hereby given that BHP Finance (USA) Inc. ("Applicant"), a Delaware corporation, c/o Jeffery H. Boyd, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004, filed an application on July 26, 1985 and an amendment thereto on November 6, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicant states that it was organized for the purpose of obtaining funds in the commercial paper market which will be loaned to BHP Finance Limited ("BHP Limited"). BHP Limited is an Australian corporation which owns all of the common stock of Applicant. BHP Limited is a wholly-owned subsidiary of the Broken Hill Proprietary Company

("BHP"), an Australian industrial corporation with interests in mining, minerals processing, steel production, oil and gas production and manufacturing throughout Australia and internationally. Applicant represents that as of May 31, 1984, BHP has total assets of approximately A \$10.2 billion, and total revenues of approximately A \$5.4 billion as of year end 1984. BHP Limited was incorporated for the purpose of financing the activities of BHP, its subsidiaries and affiliates ("BHP Group") and has to date issued debt securities guaranteed by BHP in the Australian, European and Asian markets. The net proceeds of the sale by the Applicant of commercial paper will be loaned to the BHP Group through BHP Limited.

Applicant represents that its capital stock has not been and will not be offered publicly. Applicant proposes to issue and sell commercial paper ("Notes") in offerings exempt from the registration requirements of the Securities Act of 1933 ("1933 Act"), as amended, pursuant to section 3(a)(3) or 4(2) thereof. Applicant represents that BHP will unconditionally guarantee the payment of principal, interest and premium, if any, on the Notes issued by the Applicant, and will expressly consent to the enforcement of such guarantee directly by the holders of the Notes. As a result, the Notes will have one of the three highest investment grade commercial paper ratings from at least one nationally recognized statistical rating organization and Applicant's United States counsel will certify that such a rating has been received. Applicant will also enter into an agreement with BHP Limited whereby Applicant will agree to issue Notes only at the direction of BHP Limited and BHP Limited will agree to be liable for the Notes.

Applicant undertakes not to market any Notes prior to receiving an opinion of United States counsel to the effect that the proposed offering is exempt from the registration requirements of the 1933 Act, but Applicant does not request review or approval by the Commission of counsel's opinion regarding the availability of such an exemption.

Applicant undertakes to ensure that the Notes will not be offered for sale to the general public, but instead will be sold through one or more commercial paper dealers to institutional investors and other sophisticated entities and investors of the type which ordinarily purchase commercial paper. It is stated that while an announcement of the establishment of the commercial paper facility may be made as a matter of



record, the offering for sale of the Notes will not be otherwise advertised.

Applicant states that it will appoint a major bank or trust company in the United States to act as issuing and paying agent for the Notes. Furthermore, BHP Limited and BHP undertake, in connection with any issue and sale of the Notes, to appoint irrevocably an agent in the United States upon which process may be served in any action arising out of or based on the Notes or BHP's guarantee which may be instituted in any state or federal court in the Borough of Manhattan, The city of New York, New York, by any holder of a Note, and to consent to the jurisdiction of any such court in respect of any such action.

Notwithstanding that Applicant would not fall within the precise terms of Rule 3a-5 under the Act, Applicant submits that the requested exemption is consistent with the intent of Rule 3a-5 and Applicant represents that, other than as set forth in the application, it will operate in compliance with the provisions of Rule 3a-5. Applicant states that the use of a structure which technically qualified for the exemption in Rule 3a-5 would not be appropriate for BHP because of particular circumstances applicable to BHP. The use of a subsidiary of BHP Finance to issue Notes allows BHP to centralize its group financing activities through one subsidiary and will permit BHP to deduct exchange losses incurred in its financing activities in relation to its Australian income tax. Applicant asserts that a direct issue by BHP or by a direct subsidiary of BHP would preclude such administrative and taxation advantages.

Applicant asserts that it is not a person which was intended to be covered by the Act. Applicant maintains that it is a special purpose company organized solely to issue and sell the Notes and to advance the net proceeds through BHP Limited to the BHP Group companies for use in financing their business operations. Applicant asserts that BHP is permitted to issue and sell its own commercial paper without compliance with the Act, and it is appropriate that Applicant, which would serve merely as a conduit for financing the business operations of the BHP Group companies, should be exempted from the requirements of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, or fact or law that

are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,  
Secretary.

[FR Doc. 85-28614 Filed 11-29-85; 8:45 am]  
BILLING CODE 8010-01-M

**Self-Regulatory Organizations;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing; Philadelphia Stock Exchange,  
Incorporated**

November 25, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

- Citizens First Bancorp  
Common Stock, No Par Value (File No. 7-8692)
- First Fidelity Bancorporation  
Common Stock, \$6.25 Par Value (File No. 7-8693)
- Horizon Bancorp  
Common Stock, \$4.00 Par Value (File No. 7-8694)
- United Jersey Banks  
Common Stock, \$2.50 Par Value (File No. 7-8695)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 16, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such

applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,  
Secretary.

[FR Doc. 85-28613 Filed 11-29-85; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 22-14262]

**Application and Opportunity for  
Hearing; General Foods Corp.**

November 22, 1985.

Notice is hereby given that General Foods Corporation, a Delaware corporation (the "Company"), has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. ("Citibank") under indentures of the Company dated July 1, 1970, June 15, 1981, June 15, 1981 and March 1, 1982 (collectively the "Qualified Indentures") heretofore qualified under the Act, and the trusteeship of Citibank under an indenture between The Livingston County Industrial Development Agency (the "Agency") and Citibank, Trustee, dated as of August 1, 1985 (the "1985 Indenture"), which will not be qualified under the Act because of the exemption contained in section 304(a)(4) of the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the Qualified Indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that

trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Company alleges that:

1. The Company has outstanding as of August 8th, 1985, the following debentures and notes (collectively the "Securities"):

(a) \$12,000,000 Principal amount of its 8 $\frac{3}{4}$ % Sinking Fund Debentures due July 1, 1990 issued under an indenture dated as of July 1, 1970 between the Company and Citibank. This indenture was filed as Exhibit 9(c) 2.3 to Registration Statement No. 2-37567 of the Company under the Securities Act of 1933 and has been qualified under the Act.

(b) \$150,000,000 Principal amount of its 6% Debentures due June 15, 2001 and \$200,000,000 principal amount of its 7% Debentures due June 15, 2011 pursuant to two indentures both dated as of June 15, 1981, between the Company and Citibank, Trustee. The indentures applicable to the aforementioned obligations were filed as Exhibits 13(4)(a) and 13(4)(b), respectively, to Registration Statement No. 2-72815 of the Company under the Securities Act of 1933 and have been qualified under the Act.

(c) \$150,000,000 14 $\frac{3}{4}$ % Notes due March 1, 1989 issued under an indenture dated as of March 1, 1982 between the Company and Citibank, Trustee. This indenture was filed as Exhibit 13(4) to Registration Statement No. 2-75968 under the Securities Act of 1933 and has been qualified under the Act.

2. On August 22, 1985 the Agency issued \$5,280,000 aggregate principal amount of its 8 $\frac{3}{4}$ % Pollution Control Revenue Bonds (General Foods Manufacturing Corporation Facility), Series 1985 (the "Bonds") pursuant to the 1985 Indenture. The proceeds of the sale of the Bonds have been deposited by the Agency in the construction funds and the bond fund, as established pursuant to the terms of the 1985 Indenture. The Bonds are to be payable solely from revenues derived by the Agency under the terms of a sale agreement dated as of August 1, 1985 between General Foods Manufacturing Corporation, a wholly-owned subsidiary of the Company ("GFMC") and the Agency (the "Sale Agreement"), pursuant to which GFMC will purchase the General Foods Manufacturing Corporation Pollution Control Facility ("Facility"). The obligations of GFMC under the Sale Agreement are unconditionally guaranteed by the Company pursuant to a Guaranty dated

as of August 1, 1985 between the Company and Citibank (the "Guaranty"). The rights and benefits of the Agency under the Sale Agreement have been assigned to the Trustee as security for payment of the Bonds. The Bonds are exempt from registration under the Securities Act of 1933 by virtue of an exemption contained in section 3(a)(2) and the 1985 Indenture is not being qualified under the Act.

3. Section 7.08 of the Qualified Indentures provide in part as follows:

"Section 7.08. (a) If the Trustee has or shall acquire any conflicting interest as defined in this section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in section 7.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this section 7.08, the Trustee shall, within 10 days after the expiration of such 90 days period, transmit notice of such failure to the debentureholders in the manner and to the extent provided in subsection (c) of section 5.04.

(c) For the purpose of this section 7.08, the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, *provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, an application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures;*" (Emphasis Supplied).

4. Execution of the 1985 Indenture may involve Citibank in a conflict of interest within the meaning of section 7.08 of the Qualified Indentures since the 1985 Indenture is not being qualified under the Act.

5. The Company's obligations with respect to the Securities and the Bonds are wholly unsecured and rank on a parity with each other. However, the Company may, under certain conditions be required to secure the Securities issued pursuant to the Qualified Indentures, while the Bonds will remain unsecured. The Company asserts that despite these negative pledge clauses (Sections 4.05 and 11.03 of the Qualified Indentures), it is extremely unlikely that the Securities issued pursuant to the Qualified Indentures will ever become secured and therefore this does not constitute a material difference between the securities and the Bonds.

6. The only material differences between the Qualified Indentures and the 1985 Indenture and between the rights of the holders of the Securities and the holders of the Bonds relate to the fact that the Company is the issuer of the Securities whereas its payment obligations under the Bonds are through a guaranty by the Company to Citibank, Trustee, of GFMC's obligations under the Sale Agreement and also relate to differences between the Qualified Indentures and the 1985 Indenture as to aggregate principal amounts, dates of issue, denominations, interest rates, interest payment dates, maturity, form of registration, redemption provisions and procedures, trustee's reports and other provisions of a similar nature. The provisions of the 1985 Indenture also differ from the Qualified Indentures in providing for optional and mandatory redemption prior to maturity upon the occurrence of certain specified events, in not providing for sinking fund redemption, having different time periods upon which certain defaults become an "event of default," and having different covenants, conditions and provisions, reflecting the different nature of the transaction.

7. No default has at any time existed under the Qualified Indentures or under the 1985 Indenture. It is possible that a default might arise under one of the Qualified Indentures or the 1985 Indenture without necessary arising under both the Qualified Indentures and the 1985 Indenture.

8. Such differences as exist between the Qualified Indentures and the 1985 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify

Citibank from acting as Trustee under the Qualified Indentures or the 1985 Indenture.

9. Under section 7.06(c)(1) of the Qualified Indentures, Citibank is deemed to have a conflicting interest because it is acting as Trustee under the 1985 Indenture and the Qualified Indentures and because the 1985 Indenture has not been qualified under the Act, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that Citibank's acting as Trustee under the Qualified Indentures and the 1985 Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from so acting.

10. The Company has waived (a) notice of hearing, (b) hearing on the issues raised by its application and (c) all rights to specify procedures under the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22-14282, which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that an order granting this application may be issued by the Commission at any time on or after December 20, 1985, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than December 20, 1985 at 5:30 P.M., in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon.

Any such communication request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-28611 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

### Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Listing of Personnel Serving as Members of this Agency's Senior Executive Service Performance Review Board and Announcement of Schedule for Awarding Bonuses.

**SUMMARY:** Pub. L. 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires that Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding SES bonuses in the Commission. The Securities and Exchange Commission has established a Performance Review Board consisting of:

1. George G. Kundahl, Executive Director, PRB Chairman
2. Daniel L. Goelzer, General Counsel
3. Linda C. Quinn, Executive Assistant to the Chairman

The Securities and Exchange Commission plans to award bonuses to Senior Executive Service members on or about December 15, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Craig Kellermann, Office of Executive Director, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549 (202-272-2705).

Dated: November 25, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-28612 Filed 11-29-85; 8:45 am]

BILLING CODE 8010-01-M

### DEPARTMENT OF STATE

[Public Notice 949]

#### Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 855 (44 FR 17846), March 23, 1979, the Department is submitting its May-November 1985 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article III(c) 5 of the guidelines published in the *Federal Register* on March 23, 1979.

Dated: November 21, 1985.

Hildegard B. Shishkin,

Director, Office of International Conferences.

United States Delegation to the 5th Meeting of the Review of General Concept of Separation Panel; International Civil Aviation Organization (ICAO); Montreal, May 6-17, 1985

Member

Jerry W. Bradley, Program Manager for Navigation and Separation Standards, System Engineering Service, Federal Aviation Administration, Department of Transportation

Advisers

Allen C. Busch, Systems Simulation and Analysis Division, Federal Aviation Administration, Department of Transportation

Brian F. Colamosca, Systems Simulation and Analysis Division, Federal Aviation Administration, Department of Transportation

Wayne S. Dean, Air Traffic Service, Federal Aviation Administration, Department of Transportation

Private Sector Adviser

William M. Russell, Air Traffic Transport Association, Washington, D.C.

United States Delegation to the Study Group I; International Telecommunication Union/International Telephone and Telegraph Consultative Committee (ITU/CCITT); Geneva, May 9-17, 1985

Representative

Douglas V. Davis, Common Carrier Bureau, Federal Communications Commission

Alternate Representative

Earl S. Barbely, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

Donald P. Casey, ITT World Communications, Inc., Secaucus, New Jersey

Stephen Engelman, Communications Satellite Corporation, Washington, D.C.

Herman R. Silbiger, AT&T Information Systems, Morristown, New Jersey

Frederick W. Voegel, Western Union Telegraph Company, Upper Saddle River, New Jersey

**United States Delegation to the Meeting of Experts on Ship Earth Stations Within Harbor Limits and Territorial Waters; International Maritime Satellite Organization (INMARSAT); London, May 13-17, 1985**

*Representative*

John T. Gilsenan, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

*Advisers*

James Earl, Office of the Legal Adviser, Department of State

Gary Feren, National Telecommunications and Information Administration, Department of Commerce

Edward O'Connor, Transportation and Communications Unit, United States Embassy, London

Lawrence Palmer, Common Carrier Bureau, Federal Communications Commission

William C. Salmon, Office of Under Secretary of State for Security Assistance, Science and Technology, Department of State

Joy Yanagida, Office of the Legal Adviser, Department of State

*Private Sector Adviser*

John Oslund, Communications Satellite Corporation, Washington, D.C.

**United States Delegation to the 37th Subcommittee on the Carriage of Dangerous Goods; Intergovernmental Maritime Organization (IMO); London, May 13-17, 1985**

*Representative*

John F. McGowan, Commander, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

*Alternate Representative*

John P. Aherne, Lieutenant, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

*Advisers*

Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation

Nancy Fibish, Shipping Attache, United States Embassy, London

Richard Rawl, Radioactive Materials Branch, Materials Transportation Bureau, Department of Transportation

Frank Thompson, Jr., Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

*Private Section Adviser*

Donald W. Gates, Captain, National Cargo Bureau, Inc., New York, New York

**United States Delegation to the 13th Session of the Governing Council; United Nations Environmental Program (UNEP); Nairobi, May 14-24, 1985**

*Representative*

Richard Elliot Benedick, Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

*Alternate Representatives*

The Honorable Gerald E. Thomas, United States Ambassador, Nairobi

Bill L. Long, Director, Office of Food and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

*Advisers*

Arthur Fell, Deputy Director, Office of Regional and Economic Development, Agency for International Development, Nairobi

Theodore R. Harris, Special Assistant for Environmental Affairs to the Deputy Secretary, Office of Environmental Analysis, Department of Energy

William Mansfield, Deputy Associate Administrator, Office of International Activities, Environmental Protection Agency

William Mills, Member, Council on Environmental Quality

Coleman J. Nee, United States Permanent Representative to UNEP, United States Embassy, Nairobi

Michael Paulson, Bureau of International Organization Affairs, Department of State

*Private Sector Adviser*

Joseph T. Ling, United States Council for International Business, New York

**United States Delegation to the 51st Session of the Maritime Safety Committee; Intergovernmental Maritime Organization (IMO); London, May 20-24, 1985**

*Representative*

Clyde T. Lusk, Jr., Rear Admiral, Chief, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

*Alternate Representative*

Daniel F. Sheehan, Technical Adviser, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

*Advisers*

Nancy Fibish, Shipping Attache, U.S. Embassy, London

Frits Wybenga, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Gerard P. Yoest, International Affairs Staff, United States Coast Guard, Department of Transportation

*Private Sector Advisers*

William Hannan, Vice President, American Bureau of Shipping, New York, New York

Donald C. Hintze, Executive Consultant, National Ocean Industries Association, Washington, D.C.

**United States Delegation to the United Nations Conference on the International Code of Conduct for the Transfer of Technology; United Nations Conference on Trade and Development (UNCTAD); Geneva, May 13-31, 1985**

*Representative*

David T. Morrison, Office of Business Practices, Bureau of Economic and Business Affairs, Department of State

*Alternative Representative*

Dieter Hoinkes, United States Patent and Trademark Office, Department of Commerce

*Advisers*

George Dempsey, U.S. Mission, Geneva

Ollie Ellison, U.S. Mission, Geneva

Kenneth P. Freiberg, Antitrust Division, Department of Justice

Elizabeth W. Teel, Office of the Legal Adviser, Department of State

*Private Sector Advisers*

David G. Gill, Chairman, Restrictive Business Practices Committee, U.S. Council for International Business, New York, New York

Lawrence Pearson, Senior Counsel, International Business Machines Corporation, Purchase, New York

Jennet Walker, U.S. Council for International Business, New York, New York

**United States Delegation to the Insurance Committee Meeting; Organization for Economic Cooperation and Development (OECD); Paris, June 4-5, 1985.**

*Representative*

Brant Free, Director, Office of Service Industries, Department of Commerce

*Private Sector Adviser*

Gordon J. Cloney, International Insurance Advisory Council, United

States Chamber of Commerce,  
Washington, D.C.

United States Delegation to the Fifth Meeting of the Chemicals Group and Management Committee; Organization for Economic Cooperation and Development (OECD); Paris, June 4-6, 1985

*Representative*

Marcia E. Williams, Deputy Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency

*Advisers*

Brek Milroy, Office of Toxic Substances, Environmental Protection Agency  
Thomas Wilson, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

*Private Sector Advisers*

Frances Irwin, the Conservation Foundation, Washington, D.C.  
Donald McCollister, Dow Chemical Company, Midland, Michigan

United States Delegation to the 2nd Annual Meeting of the Council; North Atlantic Salmon Conservation Organization (NASCO); Edinburgh, June 3-7, 1985

*Commissioners*

The Honorable Allen E. Peterson, Jr., Woods Hole, Massachusetts  
The Honorable Richard Buck, Hancock, New Hampshire  
The Honorable Frank Carlton, Savannah, Georgia

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United States Delegation to the Study Group VIII, International Telecommunication Union (ITU)/ International Telephone and Telegraph Consultative Committee (CCITT); Kyoto, June 5-14, 1985

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United States Delegation to the Council and Committee Meetings; International Natural Rubber Organization (INRO); Kuala Lumpur, June 6-14, 1985

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United States Delegation to the Meeting of the Environment Committee at Ministerial Level; Organization for Economic Cooperation and Development (OECD); Paris, June 18-20, 1985

*Representative*

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United States Delegation to the Resumed Special Session of the UN Commission on Transnational Corporations; UN Economic and Social Council (ECOSOC); New York, June 17-21, 1985

*Representative*

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United States Delegation to the Fourth Meeting of the Route Facility Costs Panel: International Civil Aviation Organization (ICAO); Montreal, June 25-July 5, 1985

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United States Delegation to the Commodity Problems, Intergovernmental Group on Tea; Food and Agriculture Organization (FAO); Rome, July 1-5, 1985

*Representative*

The Honorable Millicent Fenwick, United States Representative to the United Nations Agencies for Food and Agriculture, Rome

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United States Delegation to the IX World Forestry Congress; Food and Agriculture Organization (FAO); Mexico City, July 1-10, 1985

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The Honorable Charles Hatcher, U.S. House of Representatives

The Honorable Arlan Stangeland, U.S. House of Representatives

The Honorable Robin Tallon, U.S. House of Representatives

The Honorable Robert Lindsay Thomas, U.S. House of Representatives

The Honorable Charles Whitley, U.S. House of Representatives

United States Delegation to the Steel Committee, Working Party; Organization for Economic Cooperation and Development (OECD); Paris, July 15-16, 1985

*Representative*

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Appropriate USOECD Mission Officer, Paris

United States Delegation to the UN Conference on Conditions for Registration of Ships; Geneva, July 8-19, 1985

*Representative*

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Gerald Seifert, General Counsel for Maritime Policy, Committee on Merchant Marine and Fisheries, U.S. House of Representatives

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Philip J. Loree, Attorney and Chairman, Federation of American Controlled Shipping, New York, New York

James Paterson, Vice President, National Maritime Union of America, AFL-CIO, New York, New York

Talmage E. Simpkins, Executive Director, Maritime Committee, AFL-CIO, Washington, D.C.

Thomas S. Wyman, Manager, Maritime Relations, Chevron Shipping Company, San Francisco, California

**United States Delegation to the 37th Annual Meeting of the International Whaling Commission (IWC) and Associated Meeting; Bournemouth, July 15-19, 1985**

*Representative*

The Honorable John V. Byrne, United States Commissioner and Administrator, National Oceanic and Atmospheric Administration, Department of Commerce

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The Honorable Christian Herter, Jr., Deputy U.S. Commissioner, Washington, D.C.

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The Honorable Ted Stevens, Committee on Commerce, Science, and Transportation, United States Senate

The Honorable Don Bonker, Chairman, Subcommittee on International Economic Policy and Trade, Committee on Foreign Affairs, United States House of Representatives

The Honorable John R. Miller, Merchant Marine and Fisheries Committee, United States House of Representatives

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Richard Ellis, National Audubon Society, New York, New York

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Lennie Lane, Jr., Chairman, Alaska Eskimo Whaling Commission, Village of Point Hope, Alaska

**United States Delegation to the Special Session of the International Natural Rubber Organization Council (INRO); Kuala Lumpur, August 12-14, 1985**

*Representative*

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**United States Delegation to the Group of Rapporteurs of the Committee of Experts on the Transport of Dangerous Goods Economic and Social Council (ECOSOC); Geneva, August 5-16, 1985**

*Representative*

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation

*Alternate Representative*

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Charles H. Ke, Chemist, Sciences Branch, Office of Hazardous Materials Regulation, Department of Transportation

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**United States Delegation to the Group of Rapporteurs on Pollution and Energy 12th Session Economic Commission for Europe (ECE); Geneva, August 27-30, 1985**

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United States Delegation to the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders; Milan, August 26-September 6, 1985

*Representative*

The Honorable D. Lowell Jensen, Deputy Attorney General, Department of Justice

*Alternate Representatives*

The Honorable Norman A. Carlson, Director, Bureau of Prisons, Department of Justice

The Honorable Ronald Garner, Associate Deputy Attorney General, Department of Justice

*Congressional Adviser*

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The Honorable Gerald B. Tjoflat, U.S. Court of Appeals for the Eleventh Circuit, Jacksonville, Florida

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The Honorable Lois Haight Herrington, Assistant Attorney General, Office of Justice Programs, Department of Justice

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The Honorable John C. Lawn, Acting Administrator, Drug Enforcement Administration, Department of Justice

The Honorable Stanley E. Morris, Director, United States Marshals Service, Department of Justice

The Honorable Steven R. Schlesinger, Director, Bureau of Justice Statistics, Department of Justice

The Honorable James K. Stewart, Director, National Institute of Justice, Department of Justice

The Honorable Jon R. Thomas, Assistant Secretary for International Narcotics Matters, Department of State

The Honorable William H. Webster, Director, Federal Bureau of Investigation, Department of Justice

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Hubert Williams, President, Police Foundation, Washington, D.C.

United States Delegation to the 15th Session of the Subcommittee on Bulk Chemicals; Intergovernmental Maritime Organization (IMO); London, September 2-6, 1985

*Representative*

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*Alternate Representative*

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Robert H. Conn, Marine Engineer, Shell Oil Company, Houston, Texas

United States Delegation to the Special Session of the International Rubber Organization Council (INRO); Kuala Lumpur, September 2-6, 1985

*Representative*

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*Alternate Representative*

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*Private Sector Adviser*

Howard Chapel, Managing Director, Goodyear Orient Private, Ltd., Singapore

U.S. Delegation to the First Session of the World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of Space Services Utilizing It; International Telecommunication Union (ITU); Geneva, August 8-September 13, 1985

*Chairman*

The Honorable Dean Burch, Ambassador, Department of State

*Vice Chairmen*

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The Honorable David Markey,  
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United States Delegation to the 4th  
Session of the Commission for the  
Conservation of Antarctic Marine Living  
Resources; Hobart, Tasmania, Sept. 2-  
13, 1985

*Representative*

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*Alternate Representative*

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United States Delegation to the 46th  
Session of the Committee on Housing,  
Building, and Planning; Economic  
Commission for Europe (ECE); Geneva,  
Sept. 9-13, 1985

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**United States Delegation to the 46th Session of the Committee on Housing, Building, and Planning; Economic Commission for Europe (ECE); Geneva, Sept. 9-13, 1985**

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Harry A. Pryde, National Association of Home Builders, Washington, DC

**United States Delegation to the Group of Experts on Explosives (25th Session); Economic and Social Council (ECOSOC); Geneva, Sept. 16-20, 1985**

*Representative*

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**United States Delegation to the Working Party on Facilitation of International Trade Procedures; Economic Commission for Europe (ECE); Geneva, Sept. 16-20, 1985**

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**United States Delegation to the 6th Session of the General Assembly of the World Tourism Organization (WTO); Sofia, Sept. 17-26, 1985**

*Representative*

The Honorable Donna Tuttle, Under Secretary of Commerce for Travel and Tourism, Department of Commerce

*Alternate Representative*

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**United States Delegation to the Study Group 6; International Radio Consultative Committee; International Telecommunication Union (ITU/CCIR); Geneva, Sept. 16-27, 1985**

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**United States Delegation to the Study Group 2; International Radio Consultative Committee; International Telecommunication Union (ITU/CCIR); Geneva, Sept. 16-27, 1985**

*Representative*

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United States Delegation to the Council and Executive Board Sessions; International Coffee Organization (ICO); London, Sept. 16-27, 1985

*Representative*

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*Alternate Representative*

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John Heuman, Chairman of the Board, CEO, Dine-Mor Foods, Inc., Chicago, Illinois  
Howard C. Katz, Goldman, Sachs & Co., New York, New York  
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Andrew A. Scholtz, President, Coffee Department, Cargill Incorporated, New York, New York  
John Sutherland, Vice President of Purchasing, Continental Coffee Products Company, Chicago, Illinois  
H. Grady Tiller, President, Coffee Unit, Coca Cola Foods, Houston, Texas

United States Delegation to the Ninth Consultative Meeting of Contracting Parties to the London Dumping Convention of the International Maritime Organization (IMO); London, September 23-27, 1985

*Representative*

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*Alternate Representative*

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Robert Palmer, Subcommittee on Natural Resources, Agricultural Research and Environment, Committee on Science and Technology, United States House of Representatives  
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H. Alan Krause, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State  
James Mangeno, Director, Nuclear Technology Division, Nuclear Propulsion Directorate, Department of the Navy, Department of Defense  
Sheldon Myers, Deputy Assistant Administrator for Air and Radiation, Environmental Protection Agency  
Alan B. Sielen, Director, Multilateral Staff, Office of International Activities, Environmental Protection Agency  
J. Roy Spradley, Special Assistant to the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce

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Senator Olympio T. Borja, Northern Marianas Commonwealth Legislature, Saipan, C. N. M. I.  
Lyle L. Richmond, Legal Counsel to the Governor and Chairman, Environmental Quality Council, Pago Pago, American Samoa

United States Delegation to the International Civil Aviation Organization (ICAO); Communications/Operations Divisional Meeting, Montreal, September 4-28, 1985

*Representative*

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*Alternate Representatives*

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John Kern, Acting Director, Office of Flight Operations, Federal Aviation Administration, Department of Transportation  
Gerald Markey, Manager, Spectrum Engineering Division, Federal Aviation Administration, Department of Transportation  
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Chester Longman, Flight Technical Program Branch, Federal Aviation Administration, Department of Transportation  
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Melvin Zeltser, Associate Department  
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**United States Delegation to the Study  
Group 5; International Radio  
Consultative Committee; International  
Telecommunication Union (ITU/CCIR);  
Geneva, September 16-October 2, 1985**

*Representative*

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Telecommunications and Information  
Administration, Department of  
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Weapons Center, Dahlgren, Virginia

William A. Daniel, Office of Science and  
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Ernest K. Smith, Jet Propulsion  
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**United States Delegation to the Group of  
Experts on the Transport of Perishable  
Foodstuffs, 40th Session; Economic  
Commission for Europe (ECE); Geneva,  
September 30-October 4, 1985**

*Representative*

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Branch, Office of Transportation,  
Departments of Agriculture

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Brian M. McGregor, International  
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Association, Washington, D.C.

**United States Delegation to the Tenth  
Meeting of the Assembly of Parties,  
International Telecommunications  
Satellite Organization (INTELSAT);  
Washington, D.C., October 7-11, 1985**

*Representative*

The Honorable Diana Lady Dougan,  
Ambassador, Coordinator and  
Director of the Bureau of International  
Communications and Information  
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*Alternate Representative*

John Gilseman, Bureau of International  
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*Senior Advisers*

The Honorable Mark S. Fowler,  
Chairman, Federal Communications  
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The Honorable David J. Markey,  
Assistant Secretary for

Telecommunications and Information,  
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*Advisers*

James L. Ball, Federal Communications  
Commission  
James Earl, Office of the Assistant Legal  
Adviser for Economic and Business  
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Randolph Earnest, Bureau of  
International Communications and  
Information Policy, Department of  
State

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R. T. Gregg, National  
Telecommunications and Information  
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Albert Halprin Federal Communications  
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Wendell Harris, Federal  
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Bruce Kraselsky, National  
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Commerce

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Janice I. Obuchowski, Federal  
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Francis Urbany, National  
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**United States Delegation to the Eight  
Inter-American Conference of Labor  
Ministers; San Jose, October 7-11, 1985**

*Representative*

The Honorable Robert W. Searby,  
Deputy Under Secretary for  
International Affairs, Department of  
Labor

*Alternate Representative*

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the Secretary of State and  
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United States Delegation to the 55th  
Session of the Legal Committee;  
Intergovernmental Maritime  
Organization (IMO); London, October 7-  
11, 1985

*Representative*

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United States Delegation to the Study  
Group 9; International Radio  
Consultative Committee; International  
Telecommunication Union (ITU/CCIR);  
Geneva, September 30 to October 15,  
1985

*Representative*

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United States Delegation to the Study  
Group 4; International Radio  
Consultative Committee; International  
Telecommunication Union (ITU/CCIR);  
Geneva, September 30 to October 16,  
1985

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United States Delegation to the 73rd  
Statutory Meeting of the International  
Council for the Exploration of the Seas  
(ICES); London, October 7-16, 1985

*Representative*

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Fisheries Center, National Marine  
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Department of Commerce, Woods  
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**United States Delegation to the 4th Session of the Assembly of the International Maritime Satellite Organization (INMARSAT); London, October 14-16, 1985**

*Representative*

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Lawrence Palmer, Office of Science and Technology, Federal Communications Commission

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**United States Delegation to the 13th Antarctic Treaty Consultative Meeting (Antarctica); Brussels, October 7-18, 1985**

*Representative*

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**United States Delegation to the Study Group 7; International Radio Consultative Committee; International Telecommunication Union (ITU/CCIR); Geneva, October 10-18, 1985**

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**United States Delegation to the 30th Session of the Subcommittee on Radiocommunications; Intergovernmental Maritime Organization (IMO); London, October 14-18, 1985**

*Representative*

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William Luther, Field Operation Bureau, Federal Communications Commission

Robert C. McIntyre, Engineer, Federal Communications Commission

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**United States Delegation to the Committee on Shipping; Working Group on International Shipping Legislation; United Nations Conference of Trade and Development (UNCTAD); Geneva, October 14-22, 1985**

*Representative*

Lieutenant Arthur J. Volkle, Jr., USCG; Maritime and International Law Division; Office of Chief Counsel; U.S. Coast Guard; Department of Transportation

*Adviser*

Richard Jacobson, U.S. Mission, Geneva

*Private Sector Adviser*

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**United States Delegation to the Meetings  
for the International Institute for Cotton  
(ICC) and International Cotton Advisory  
Committee (ICAC); Sydney, October 26  
to November 1, 1985**

*Representative*

Everett G. Rank, Administrator,  
Agricultural Stabilization and  
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*Alternate Representative*

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Seeds Division, Foreign Agricultural  
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Rudi E. Scheidt, President, Hohenberg  
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**United States Delegation to the Study  
Group CMTT; International Radio  
Consultative Committee; International  
Telecommunication Union (ITU/CCIR);  
Geneva, October 21 to November 5, 1985**

*Representative*

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Stamford, Connecticut

John J. McGrath, Sales Engineer—  
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John Serafin, Manager, ABC Television  
Network, New York, New York

Randy Sharpe, Engineer, AT&T  
Technologies, Holmdel, New Jersey

**United States Delegation to the Council  
and Related Meetings; International  
Natural Rubber Organization (INRO);  
Kuala Lumpur, October 29 to November  
6, 1985**

*Representative*

Rollinde Prager, Director of Commodity  
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Representative, Executive Office of  
the President

*Alternate Representatives*

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*Adviser*

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Kuala Lumpur

*Private Sector Advisers*

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C. Bradford Pettit, Firestone Rubber  
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**United States Delegation to the Third  
Air Transport Conference; International  
Civil Aviation Organization (ICAO);  
Montreal, October 22 to November 7,  
1985**

*Chief Delegate*

The Honorable, Edmund Stohr, U.S.  
Representative to ICAO, Montreal

*Delegates*

James J. Gansle, Office of the Assistant  
Secretary for Policy and International  
Affairs, Department of Transportation

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Office of Aviation, Bureau of  
Economic and Business Affairs,  
Department of State

John H. Kiser, Transportation Industry  
Analyst, Office of the Assistant  
Secretary for Policy and International  
Affairs, Department of Transportation

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Erwin W. von den Steinen, Chief,  
Aviation Programs and Policy  
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Business Affairs, Department of State

George L. Wellington, Chief, Continuing  
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*Private Sector Adviser*

Thomas V. Lydon, Manager,  
International Services, Air Transport  
Association of America, Washington,  
D.C.

**United States Delegation to the 32nd  
Annual Meeting of the International  
North Pacific Fisheries Commission  
(INPFC); Tokyo, November 4-8, 1985**

*Commissioners*

The Honorable (Head of Delegation),  
Clement Tillion, Fisherman, Homer,  
Alaska

The Honorable, Dayton Lee Alverson,  
Managing Partner, Natural Resources  
Consultants, Inc., Seattle, Washington

The Honorable, Richard B. Lauber, Vice  
President and Alaska Manager,  
Pacific Seafood Processors, Juneau,  
Alaska

The Honorable, Robert, McVey,  
National Marine Fisheries Service,  
National Oceanic and Atmospheric  
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George J. Easley, Pacific Fisheries  
Management Council, Juneau, Alaska

Walter Smith, Alaska Fisherman's  
Union, Everett, Washington

Jeffery Stephan, United Fisherman's  
Marketing Association, Inc., Kodiak,  
Alaska

United States Delegation to the Joint Working Group of the Insurance Committee and Committee of Invisibles and the Insurance Committee Organization for Economic Cooperation and Development (OECD); Paris, November 4-8, 1985

*Representative*

Brant Free, Acting Deputy Assistant Secretary for Services Department of Commerce

*Adviser*

Appropriate USOECD, Mission Officer, Paris

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Gordon J. Cloney, International Insurance Advisory Council, United States Chamber of Commerce, Washington D.C.

Bruce Foudree, Commissioner of Insurance, State of Iowa, Des Moines, Iowa

United States Delegation to the Study Group CMV; International Radio Consultative Committee; International Telecommunication Union (ITU/CCIR); Geneva, November 6-14, 1985

*Representative*

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*Government Adviser*

William A. Luther, International Adviser, Field Operations Bureau, Federal Communications Commission

*Private Sector Adviser*

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United States Delegation to the Committee on Tungsten, 17th Session; United Nations Conference on Trade and Development (UNCTAD); Geneva, November 11-15, 1985

*Representative*

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*Alternate Representative*

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Dorothy Dwoskin, Office of the Deputy U.S. Trade Representative, Geneva  
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C. Eric Ho, Senior Vice President, Alloy Division, AMAX, Greenwich, Connecticut  
Peter Johnson, Director, Marketing and Public Relations, Metal Powder Industries Federation, Princeton, New Jersey

United States Delegation to the 16th Session of the Administrative and Legal Committee; Union for the Protection of New Plant Varieties (UPOV); Geneva, November 14-15, 1985

*Representative*

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**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**Revocation of the Section 401 and Commuter Air Carrier Authorities of Puerto Rico International Airlines, Inc. d/b/a Prinair**

**AGENCY:** Department of Transportation.  
**ACTION:** Notice of Order to Show Cause, (Order 85-11-65); Docket 43615.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the section 401 and commuter air carrier authorities of Puerto Rico International Airlines, Inc. d/b/a Prinair.

**DATES:** Persons wishing to file objections should do so no later than December 17, 1985.

**ADDRESSES:** Responses should be filed in Docket 43615 and addressed to the Office of Documentary Services, Department of Transportation, 400 7th

Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Patricia T. Szrom, Special Authorities Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 755-3812.

Dated: November 25, 1985.

Matthew V. Scocozza,  
Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-28552 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-62-M

**Federal Aviation Administration**

[AC No. 45-3]

**Advisory Circular—Installation, Removal, or Change of Identification Data and Identification Plates on Aircraft Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Publication of Advisory Circular (AC) No. 45-3, Installation, Removal or Change of Identification Data and Identification Plates on Aircraft Engines.

On November 21, 1984, proposed AC 45-3 was published in the **Federal Register** for public comment. Interested persons were given until January 31, 1985, to submit their views on the proposal. The comments were evaluated and it was determined that issuance of the AC, incorporating clarifying changes recommended by a commentator, would be in the public interest and safety would not be compromised.

Notice is hereby given that, after review of the comments and incorporation of the changes based on comments, the FAA issued AC 45-3, Installation, Removal, or Change of Identification Data and Identification Plates on Aircraft Engines, on November 6, 1985.

Interested persons may obtain the AC from the U.S. Department of Transportation, Subsequent Distribution Section, M-494.3, Washington, DC 20590. A copy of the FAA discussion and disposition comments may be obtained from the Federal Aviation Administration, Office of Airworthiness, Aircraft Manufacturing Division (AWS-200).

Issued in Washington, DC, on November 6, 1985.

William J. Sullivan,  
Acting Deputy Director of Airworthiness  
[FR Doc. 85-28487 Filed 11-29-85; 8:45 am]

BILLING CODE 4910-8-M



## DEPARTMENT OF THE TREASURY

[Number: 112-2]

**Delegation of Authority to the Treasurer of the United States To Designate Financial Institutions as Depositories of Public Money for Statue of Liberty-Ellis Island Commemorative Coin Program**

Date: November 21, 1985.

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by 31 U.S.C. 301 and 321(b), and by 12 U.S.C. 90, 265, 266, 391, 1452(c), 1464(k), 1725(d), 1767, 2012, 2072, and 2122, it is ordered that the Treasurer of the United States is authorized and directed to take all necessary and proper measures, including direction of other officials of the Department and utilization of the services of other government agencies, to establish depository accounts with financial institutions, and to designate financial agents, only as are necessary to support the Statue of Liberty-Ellis Island Commemorative Coin Program.

James A. Baker III,

Secretary of the Treasury.

[FR Doc. 85-28515 Filed 11-29-85; 8:45 am]

BILLING CODE 4810-25-M

## Internal Revenue Service

## Privacy Act of 1974; Routine Uses

**AGENCY:** Internal Revenue Service, Department of the Treasury.

**ACTION:** Correction to Notice of Routine Uses for Treasury/IRS 36.003, General Personnel and Payroll Records.

**SUMMARY:** This is a correction to include a routine use which was previously part of Appendix AA. This routine use was not included in the last publication of this System on Monday July 22, 1985, due to an administrative oversight. Any disclosure of information will be compatible with the purpose for which the information is collected.

**DATE:** December 2, 1985.

**ADDRESS:** Chief, Public Services Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Rm. 1615, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Marcus Farbenblum (202) 566-3359, Chief, Public Services Branch.

Dated: November 25, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Treasury/IRS 36.003

## SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in these records may be used: (1) To provide information to a prospective employer of an IRS employee or former IRS employee. (2) To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations. (3) To provide information to a Federal, State, or local agency, other organizations or individuals in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit. (4) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent agencies. (5) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial process. (6) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing Counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings. (7) To provide information to other agencies to the extent provided by law or regulation and necessary to report apparent violation of law to appropriate law enforcement agencies. (8) To provide information or records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating

or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereof or upon request of such agency when the agency is investigating the possible violation of their rules or regulations. (9) To provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies' systems in accordance with applicable laws, Executive Orders, and applicable regulations. (10) To provide information to hospitals and similar institutions or organizations involved in voluntary blood donation activities. (11) To provide information to educational institutions for recruitment and cooperative education purposes. (12) To provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration. (13) To provide information to financial institutions for payroll purposes. (14) To provide information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes. (15) To provide information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to the consumer reporting agency for obtaining commercial credit reports; and to a debt collecting agency for debt collection services. (16) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (17) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (18) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's function relating to civil and criminal proceedings.

[FR Doc. 85-28514 Filed 11-29-85; 8:45 am]

BILLING CODE 4830-01-M

# Sunshine Act Meetings

Federal Register

Vol. 50, No. 231

Monday, December 2, 1985

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

	<i>Item</i>
Consumer Product Safety Commission	1
Equal Employment Opportunity Commission	2, 3
Federal Reserve System	4, 5
Inter-American Foundation Board	6

### 1

#### CONSUMER PRODUCT SAFETY COMMISSION

**TIME AND DATE:** 9:30 a.m., Wednesday, December 4, 1985

**LOCATION:** Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

**STATUS:** Open to the public.

#### MATTERS TO BE CONSIDERED:

##### *Gas Heating Systems: Status*

The staff will brief the Commission on the activities conducted during Fiscal Year 1985 on this priority project. This will include actions involving central furnaces, water heaters, carbon monoxide detectors, flexible gas connectors and lighting instructions.

**FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL:** 301-492-5709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,  
*Deputy Secretary,*  
November 27, 1985.

[FR Doc. 85-28688 Filed 11-27-85; 1:10 pm]  
BILLING CODE 6355-01-M

### 2

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**DATE AND TIME:** Tuesday, December 10, 1985, 9:30 a.m. (eastern time).

**PLACE:** Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

**STATUS:** Closed to the public.

#### MATTER TO BE CONSIDERED:

##### *Closed*

Litigation Authorization; General Counsel Recommendations.

**Note.**—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the *Federal Register*, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

#### CONTACT PERSON FOR MORE

**INFORMATION:** Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: November 27, 1985.

Cynthia C. Matthews,  
*Executive Officer.*

This Notice Issued November 27, 1985.

[FR Doc. 85-28636 Filed 11-27-85; 10:26 am]  
BILLING CODE 6750-06-M

### 3

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

**DATE AND TIME:** Monday, December 9, 1985, 2:00 p.m. (eastern time).

**PLACE:** Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

**STATUS:** Part will be open to the public and part will be closed to the public.

#### MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Annual Report on the Employment of Minorities, Women and Handicapped Individuals in the Federal Government for Fiscal Year 1983

##### *Closed*

Litigation Authorization; General Counsel Recommendations

**Note.**—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the *Federal Register*, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

#### CONTACT PERSON FOR MORE

**INFORMATION:** Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: November 27, 1985.

Cynthia C. Matthews,

*Executive Officer, Executive Secretariat.*

This Notice Issued November 27, 1985.

[FR Doc. 85-28637 Filed 11-27-85; 10:27 am]

BILLING CODE 6750-06-M

### 4

#### FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 10:00 a.m., Wednesday, December 4, 1985.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

##### *Summary Agenda*

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to index the low reserve tranche for transactions accounts and the reserve requirement exemption amount for 1986.
2. Technical amendment to Board policy statement regarding risks on large dollar wire transfer systems requested by the Institute of Foreign Bankers.

##### *Discussion Agenda*

3. Proposed Federal Reserve Board budget for 1986.
4. Any items carried forward from a previously announced meeting.

**NOTE:** This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 27, 1985.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 85-28665 Filed 11-27-85; 11:33 am]

BILLING CODE 6210-01-M

5

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** Approximately 11:00 a.m., Wednesday, December 4, 1985, following a recess at the conclusion of the open meeting.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business

days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 27, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-28666 Filed 11-27-85; 11:33 am]

**BILLING CODE 6210-01-M**

6

**INTER-AMERICAN FOUNDATION BOARD****TIME AND DATE:**

December 9, 1985, 6:00-9:00 p.m.

December 10, 1985, 9:30-12:00 noon

**PLACE:** 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

**STATUS:** Open, except for the portion to be held as Closed Session to discuss Personnel matters as defined in § 1004.4(b) of 22 CFR Chapter 10.

**MATTERS TO BE CONSIDERED:**

*December 9, 1985*

1. The Chairman's Report
2. The President's Report (Tab 1)
3. Approval of the Minutes of the Meeting of June 17-18, 1985 (Tab 2)
4. New Program Initiative (Tab 3)

*December 10, 1985*

5. Closed Session to discuss Personnel Matters as Defined in § 1004.4(b) of 22 CFR Chapter 10
6. Report of the Audit Committee
7. Plans for IAF's 15th Anniversary (Tab 4)
8. Other Business

**CONTACT PERSONS FOR MORE INFORMATION:**

Robert W. Mashek, Secretary to the Board of Directors, (703) 841-3844  
Charles M. Berk, General Counsel, (703) 841-3812

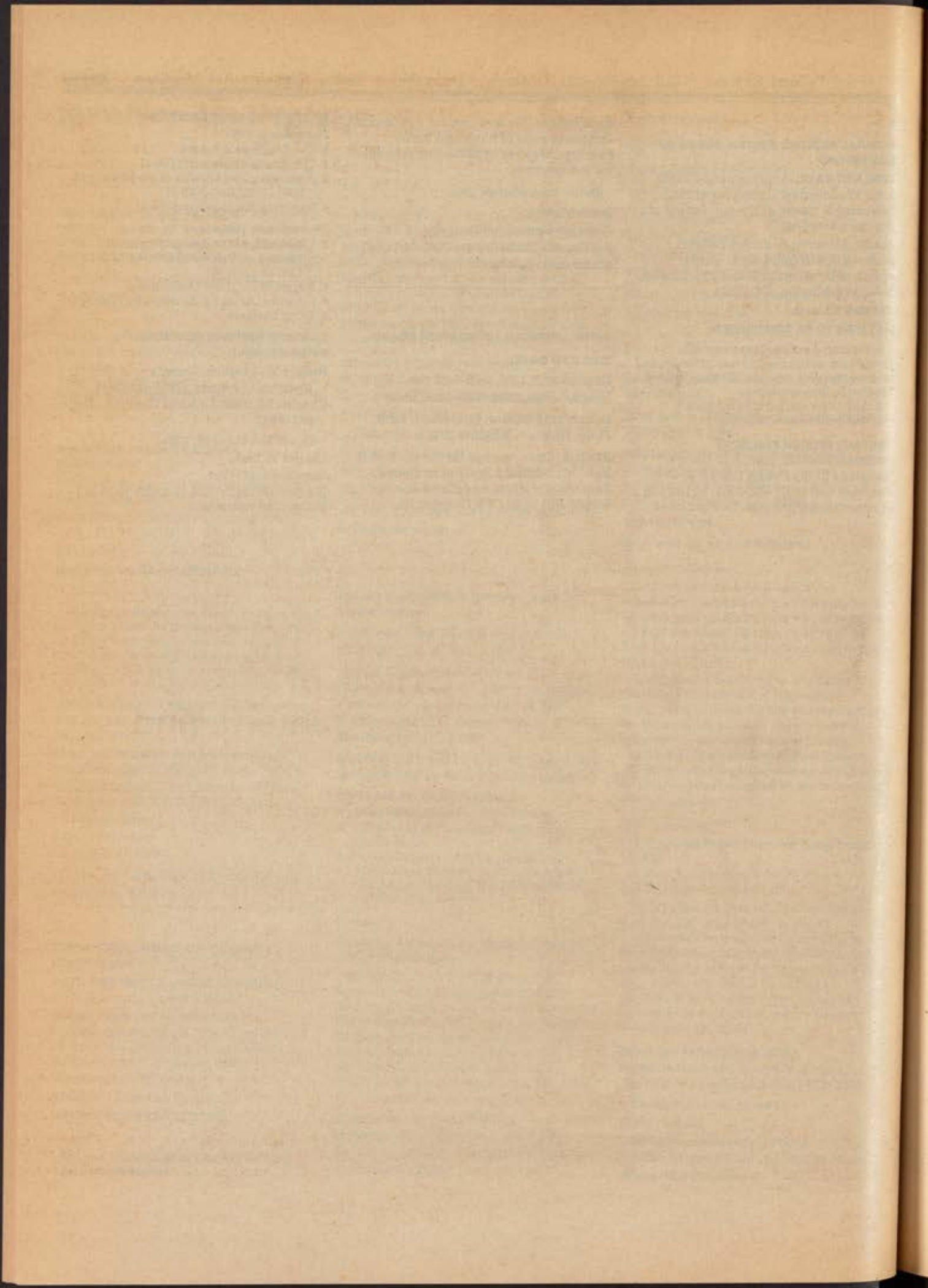
Dated: November 25, 1985.

**Charles M. Berk,**

*Sunshine Act Officer.*

[FR Doc. 85-28625 Filed 11-27-85; 10:25 am]

**BILLING CODE 7025-01-M**



# **federal register**

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**Monday  
December 2, 1985**

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**Part II**

**Office of  
Management and  
Budget**

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**Budget Deferrals; Notice**

**OFFICE OF MANAGEMENT AND  
BUDGET****Budget Deferrals**

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 8 new deferrals of budget authority for 1986 totaling \$2,023,327,275. The deferrals affect accounts in Funds Appropriated to the President, the Departments of Commerce, Defense-Military, Health and Human Services, Transportation, and Treasury.

The details of these deferrals are contained in the attached report.

*Ronald Reagan*

THE WHITE HOUSE,

November 25, 1985.

BILLING CODE 3110-01-M

SUMMARY OF SPECIAL MESSAGES  
FOR FY 1985  
(in thousands of dollars)

CONTENTS OF SPECIAL MESSAGE  
(in thousands of dollars)

DEFERRAL #	ITEM	BUDGET AUTHORITY	RESCISSIONS	DEFERRALS
D86-24	Funds Appropriated to the President International Security Assistance Economic support fund.....	1,222,216	---	2,023,327
D86-25	National Oceanic and Atmospheric Administration Fisheries loan fund.....	1,959	---	2,023,327
D86-26	Promote and develop fishery products and research pertaining to American fisheries.....	32,333	---	---
D86-27	Department of Defense - Military Family Housing, Air Force.....	11,800	---	2,023,327
D86-28	Department of Health and Human Services Social Security Administration Limitation on administrative expenses (construction).....	6,489	-----	1,628,765
D86-29	Department of Transportation Federal Aviation Administration Facilities and equipment (airport and airway trust fund).....	686,438	---	-----
D86-30	Department of the Treasury Office of the Secretary Local government fiscal assistance trust fund.....	7,743	---	-----
D86-31	Office of Revenue Sharing Local government fiscal assistance trust fund.....	54,349	---	3,652,092
	<b>Total, deferrals.....</b>	<b>2,023,327</b>		

Second special message:  
 New items.....  
 Revisions to previous special messages.....  
 Effects of second special message.....  
 Amounts from previous special messages that are changed by this message (changes noted above).....  
 Subtotal, rescissions and deferrals.....  
 Amounts from previous special messages that are not changed by this message.....  
 Total amount proposed to date in all special messages.....

Deferral No: D85-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:** Funds Appropriated to the President

**Bureau:** International Security Assistance

**Appropriation title and symbol:** Economic Support Fund 1/

115/71037 11X1037

**OMB Identification code:** 11-1037-0-1-152

**Grant program:**  Yes  No

**Type of account or fund:**  Annual  Multiple-year 9/30/85; 5/30/87 (expiration date)  No-Year

**\*Coverage:**

**Identification Code:** 11-1037-0-1-152  
11-1037-0-1-152  
11-1037-0-1-152

**Amount Deferred:** ---  
1,004,859,000  
170,000,000  
47,357,000  
1,222,216,000

**Legal authority (in addition to sec. 1013):**  Antideficiency Act  Other

**Type of budget authority:**  Appropriation  Contract authority  Other

**Justifications:** This action continues the deferral of funds deferred in fiscal year 1985 pending approval of specific loans and grants to eligible countries by the Secretary of State, including grants to Jordan and further interagency deliberations on U.S. - Lebanon policy and other high priority funding requirements. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

**Estimated Program Effects:** None

**Outlay Effects:** None

1/ This account was the subject of similar deferrals in 1985 (D85-2, D85-7A, D85-2B, and D85-2C).

Deferral No: D86-25

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:** Department of Commerce

**Bureau:** National Oceanic and Atmospheric Administration

**Appropriation title and symbol:** Fisheries Loan Fund 1/

12X5123

**OMB Identification code:** 11-1037-0-1-152

**Grant program:**  Yes  No

**Type of account or fund:**  Annual  Multiple-year (expiration date)  No-Year

**\*Coverage:**

**Identification Code:** 11-1037-0-1-152

**Amount Deferred:** ---  
1,004,859,000  
170,000,000  
47,357,000  
1,222,216,000

**Legal authority (in addition to sec. 1013):**  Antideficiency Act  Other

**Type of budget authority:**  Appropriation  Contract authority  Other

**Justifications:** The Fisheries Loan fund provides direct loans to vessel operators at subsidized rates (3% interest) for purchasing, contracting, equipping, maintaining, repairing, or operating new or used fishing vessels or gear. Loans are made primarily from direct appropriations. Loan recipients should be able to obtain financing from private sources without Federal Government intervention. The amount proposed for deferral is the estimated carryover from 1985 to 1986 of unobligated balances due to interest and repayments during 1985 from outstanding loans and a portion of the amounts available under the Continuing Resolution (P.L. 99-103). The Fisheries Loan Fund is proposed for termination and extension of the authorization is not part of the President's 1986 legislative program. These funds are deferred pending Congressional consideration of the President's proposal.

**Estimated Program Effects:** None

**Outlay Effect (in thousands of dollars):**

1986 Outlay Estimate Without Deferral	1,959
With Deferral	0

1/ This account was the subject of a rescission proposal in 1985 (D85-65).



Deferral No: D85-25

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of Commerce  
Bureau: National Oceanic and Atmospheric Administration  
Appropriation title and symbol:  
Promote and develop fishery products and research pertaining to American fisheries  
13X5139

New budget authority..... \$ 40,339,824  
Other budgetary resources 7,850,000  
Total budgetary resources 48,189,824  
Amount to be deferred:  
Part of year \$ 32,333,000  
Entire year

Legal authority (in addition to sec. 1013):  
 Antideficiency Act  
 Other

Grant program:  Yes  No

**OMB Identification code:**  
13-5139-0-2-376

Type of account or fund:  
 Annual  
 Multiple-year (expiration date)  
 No-Year

Type of budget authority:  
 Appropriation  
 Contract authority  
 Other 15 U.S.C. 713C-3

**Justifications:** The funding for this appropriation is derived from 30% of the gross receipts from customs duties on imported fishery products under the provisions of U.S.C. 713C-3, or the Saltonstall-Kennedy Act. The Bureau of Agriculture, which in turn computes the 30% available to NOAA. These funds supplement funds appropriated to NOAA under the "Operations, Research and Facilities" appropriation for development of the U.S. fishing industry. The Department of Commerce is deferring \$32,333,000 in receipts pending Congressional action on a proposal to transfer these funds to offset the "Operations, Research and Facilities" appropriation for fisheries research, management, and development activities. The funds will be transferred following Congressional action or released for obligation.

**Estimated Program Effect:** None

**Outlay Effects:** None

Deferral No: D85-27

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of Defense - Military  
Bureau:  
Family Housing, Defense  
Appropriation title and symbol:  
See Coverage Section below 1/

New budget authority..... \$  
Other budgetary resources 276,164,000  
Total budgetary resources 276,164,000  
Amount to be deferred:  
Part of year \$ 11,800,000  
Entire year

Legal authority (in addition to sec. 1013):  
 Antideficiency Act  
 Other

Grant program:  Yes  No

**OMB Identification code:**  
See Coverage Section below 1/

Type of account or fund:  
 Annual 9/30/86  
 Multiple-year (expiration date) 9/30/88  
 No-Year 9/30/89

Type of budget authority:  
 Appropriation  
 Contract authority  
 Other

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Deferred
Family housing, Air Force.....	575/90704	57-0704-0-1-051	\$11,800,000
Family housing, Air Force.....	574/80704	57-0704-0-1-051	---
Family housing, Air Force.....	573/70704	57-0704-0-1-051	---
Family housing, Air Force.....	572/60704	57-0704-0-1-051	\$11,800,000

**Justification:** These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

**Estimated Program Effect:** None

**Outlay Effect:** None

1/ This account was the subject of a similar deferral in 1985 (D85-26).

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of Health and Human Svcs  
Bureau: Social Security Administration  
Appropriation title and symbol:  
Limitation on Administrative Expenses (Construction) 1/

New budget authority..... \$  
Other budgetary resources 9,873,197  
Total budgetary resources 9,873,197  
Amount to be deferred:  
Part of year \$  
Entire year 6,489,137

OMB Identification code:  
75-8007-0-7-571  
Legal authority (in addition to sec. 1013):  Antideficiency Act  
Grant program:  Yes  No

Type of account or fund:  
 Annual  
 Multiple-year (expiration date)  
 No-Year

Type of budget authority:  
 Appropriation  
 Contract authority  
 Other

Justification: This account provides funding for construction and renovation of the Social Security Administration's (SSA) headquarters and field office buildings. Obligational authority in the amount of this deferral is not needed at the present time. Should new requirements arise, subsequent appropriation requests will include revisions to this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-9).

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of Transportation  
Bureau: Federal Aviation Administration  
Appropriation title and symbol:  
Facilities and equipment (Airport and airway trust fund) 1/

New budget authority..... \$  
Other budgetary resources 1,255,593,826  
Total budgetary resources 1,255,593,826  
Amount to be deferred:  
Part of year \$  
Entire year 686,438,312

OMB Identification code:  
69-8107-0-7-402  
Legal authority (in addition to sec. 1013):  Antideficiency Act  
Grant program:  Yes  No

Type of account or fund:  
 Annual  
 Multiple-year (expiration date)  
 No-Year

Type of budget authority:  
 Appropriation  
 Contract authority  
 Other

Justification: Funds from this account are used to continue to procure specific Congressionally-approved facilities and equipment for the expansion and modernization of the National Airspace System. The projects financed from this account include construction of buildings and the purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system, and expansion and improvement in the navigational and landing aid systems. These activities were justified and provided for in the Department's regular budget submissions and were appropriated by Congress for the year in which requested. Due to the lengthy procurement and construction time for interrelated facilities and complex equipment systems, it is not possible to obligate all the funds necessary to complete each project in the year funds were appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This action is consistent with FAA's full funding approach and Congressional intent to provide multi-year funding for the total costs of projects. This action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512), which authorizes the establishment of reserves for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of similar deferrals in 1985 (D85-11, D85-11A, and D85-11B).

Deferral No: D85-31

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of the Treasury  
Bureau: Office of Revenue Sharing  
Appropriation title and symbol:  
Local Government Fiscal Assistance Trust Fund 1/  
20X8111

New budget authority..... \$3,425,025,000  
(P.L. 93-103)  
Other budgetary resources 54,000,000  
Total budgetary resources 3,479,025,000  
Amount to be deferred: \$ 2,500,000  
Part of year  
Entire year 51,849,200

**OMB Identification code:**  
20-811-0-7-851  
Grant program:  Yes  No

**Legal authority (in addition to sec. 1013):**  
 Antideficiency Act P.L. 98-371  
 Other P.L. 94-488 P.L. 96-604, P.L. 92-512, P.L. 98-185

**Type of account or fund:**  
 Annual  
 Multiple-year (expiration date)  
 No-Year

**Type of budget authority:**  
 Appropriation  
 Contract authority  
 Other

**Justification:** The Secretary of the Treasury must hold in reserve an amount sufficient enough to meet valid claims from local governments that past revenue sharing payments have been too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of the entitlements of the over 39,000 governments for prior entitlement periods. This cumulative unobligated reserve from entitlement periods 1-16 is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for any prior entitlement periods. After adjusting for such releases from the reserve, the deferred amount projected to carry over into FY 1986 is \$54.3 million. This unobligated amount will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund and will be paid to recipients as part of the regular distribution.

**Estimated Program Effect:** None

**Outlay Effect:** None

1/ This account is subject to another deferral (D85-30) and was the subject of a similar deferral in 1985 (D85-131).

2/ Deferral of outlays only.

[FR Doc. 85-28569 Filed 11-29-85; 8:45 am]

BILLING CODE 2510-01-C

Deferral No: D85-10

DEFERRAL OF BUDGET AUTHORITY  
Report Pursuant to Section 1013 of P.L. 93-344

**AGENCY:**  
Department of the Treasury  
Bureau: Office of the Secretary  
Appropriation title and symbol:  
Local Government Fiscal Assistance Trust Fund 1/  
20X8111

New budget authority..... \$3,425,025,000  
(P.L. 93-103)  
Other budgetary resources 54,000,000  
Total budgetary resources 3,479,025,000  
Amount to be deferred: \$ 7,742,617  
Part of year  
Entire year

**OMB Identification code:**  
20-811-0-7-851  
Grant program:  Yes  No

**Legal authority (in addition to sec. 1013):**  
 Antideficiency Act P.L. 98-371  
 Other P.L. 94-488 P.L. 96-604, P.L. 92-512, P.L. 98-185

**Type of account or fund:**  
 Annual  
 Multiple-year (expiration date)  
 No-Year

**Type of budget authority:**  
 Appropriation  
 Contract authority  
 Other

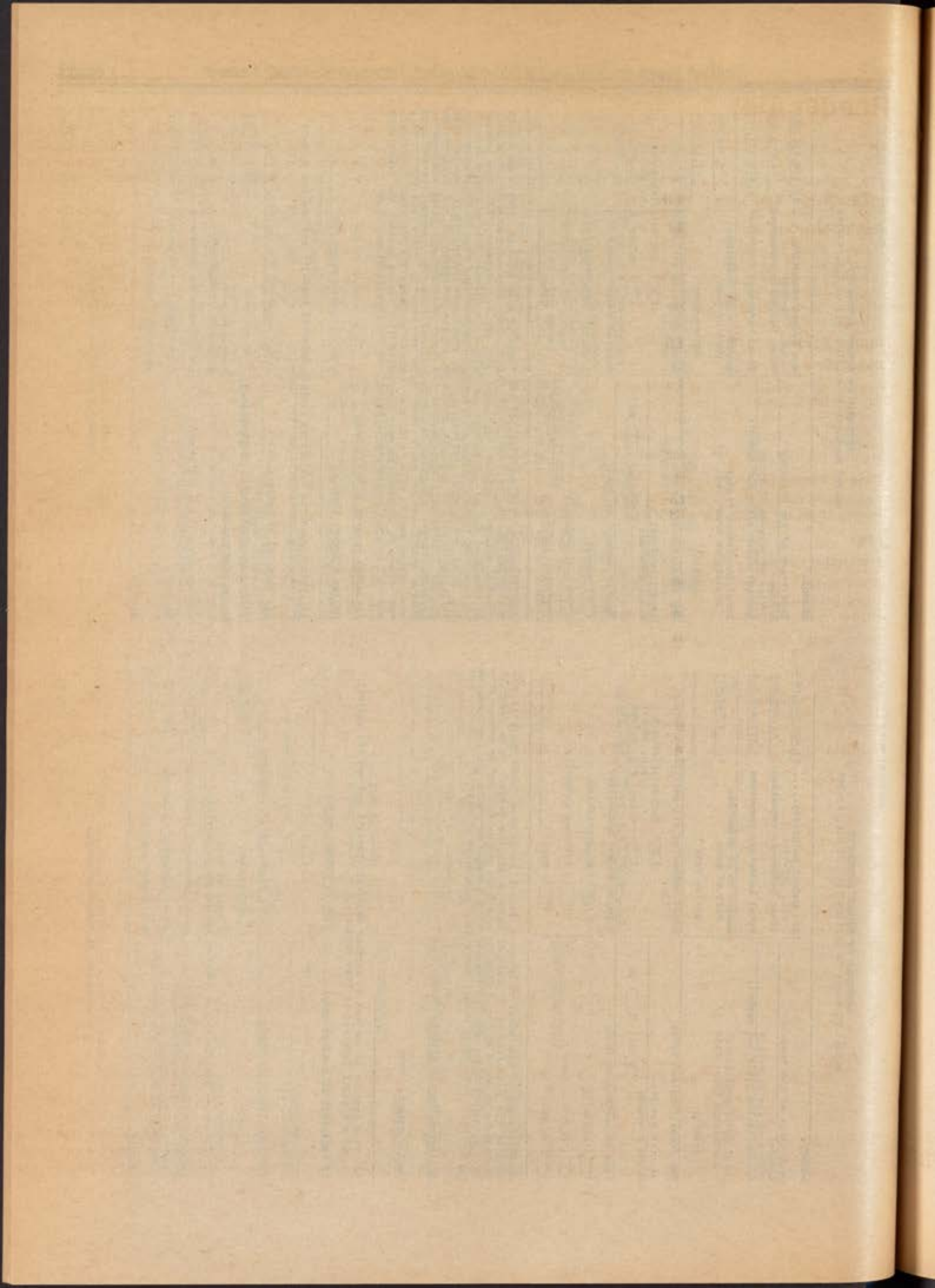
**Justification:** The Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of General Revenue Sharing funds. This deferral represents payments withheld from various governments involved in annexations or incorporations and for reasons of non-compliance with the requirements of the Local Government Fiscal Assistance Amendments of 1983.

**Estimated Program Effect:** None

**Outlay Effect:** None

1/ This account is subject to another deferral (D85-31) and was the subject of a similar deferral in 1985 (D85-12).

2/ Deferral of outlays only.



# Reader Aids

Federal Register

Vol. 50, No. 231

Monday, December 2, 1985

## INFORMATION AND ASSISTANCE

### SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
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Public laws (Slip laws)	275-3030

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General information, index, and finding aids	523-5227
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Corrections	523-5237
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#### Presidential Documents

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Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230
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#### Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's list of Public Laws. Last List November 27, 1985

## FEDERAL REGISTER PAGES AND DATES, DECEMBER

49341-49504.....2

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 1985

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
December 2	December 17	January 2	January 16	January 31	March 3
December 3	December 18	January 2	January 17	February 3	March 3
December 4	December 19	January 3	January 21	February 3	March 4
December 5	December 20	January 6	January 21	February 3	March 5
December 6	December 23	January 6	January 21	February 4	March 6
December 9	December 24	January 8	January 23	February 7	March 10
December 10	December 26	January 9	January 24	February 10	March 10
December 11	December 26	January 10	January 27	February 10	March 11
December 12	December 27	January 13	January 27	February 10	March 12
December 13	December 30	January 13	January 27	February 11	March 13
December 16	December 31	January 15	January 30	February 14	March 17
December 17	January 2	January 16	January 31	February 18	March 17
December 18	January 2	January 17	February 3	February 18	March 18
December 19	January 3	January 21	February 3	February 18	March 19
December 20	January 6	January 21	February 3	February 18	March 20
December 23	January 7	January 22	February 6	February 21	March 24
December 24	January 8	January 23	February 7	February 24	March 24
December 26	January 10	January 27	February 10	February 24	March 26
December 27	January 13	January 27	February 10	February 25	March 27
December 30	January 14	January 29	February 13	February 28	March 31
December 31	January 15	January 30	February 14	March 3	March 31

## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (\*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$550 domestic, \$137.50 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Title	Price	Revision Date	Title	Price	Revision Date
1, 2 (2 Reserved)	\$5.50	Apr. 1, 1985	16 Parts:		
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985	0-149	9.00	Jan. 1, 1985
4	12.00	Jan. 1, 1985	150-999	10.00	Jan. 1, 1985
5 Parts:			1000-End	13.00	Jan. 1, 1985
1-1199	18.00	Oct. 1, 1985	17 Parts:		
1200-End, 6 (6 Reserved)	7.50	Jan. 1, 1985	1-239	20.00	Apr. 1, 1985
7 Parts:			240-End	14.00	Apr. 1, 1985
0-45	14.00	Jan. 1, 1985	18 Parts:		
46-51	13.00	Jan. 1, 1985	1-149	12.00	Apr. 1, 1985
52	14.00	Jan. 1, 1985	150-399	19.00	Apr. 1, 1985
53-209	14.00	Jan. 1, 1985	400-End	7.00	Apr. 1, 1985
210-299	13.00	Jan. 1, 1985	19	21.00	Apr. 1, 1985
300-399	8.00	Jan. 1, 1985	20 Parts:		
400-699	12.00	Jan. 1, 1985	1-399	8.00	Apr. 1, 1985
700-899	14.00	Jan. 1, 1985	400-499	16.00	Apr. 1, 1985
900-999	14.00	Jan. 1, 1985	500-End	18.00	Apr. 1, 1985
1000-1059	12.00	Jan. 1, 1985	21 Parts:		
1060-1119	9.50	Jan. 1, 1985	1-99	9.00	Apr. 1, 1985
1120-1199	8.00	Jan. 1, 1985	100-169	11.00	Apr. 1, 1985
1200-1499	13.00	Jan. 1, 1985	170-199	13.00	Apr. 1, 1985
1500-1899	7.50	Jan. 1, 1985	200-299	4.25	Apr. 1, 1985
1900-1944	12.00	Jan. 1, 1985	300-499	20.00	Apr. 1, 1985
1945-End	13.00	Jan. 1, 1985	500-599	16.00	Apr. 1, 1985
8	7.50	Jan. 1, 1985	600-799	6.50	Apr. 1, 1985
9 Parts:			800-1299	10.00	Apr. 1, 1985
1-199	13.00	Jan. 1, 1985	1300-End	5.50	Apr. 1, 1985
200-End	9.50	Jan. 1, 1985	22	21.00	Apr. 1, 1985
10 Parts:			23	14.00	Apr. 1, 1985
0-199	17.00	Jan. 1, 1985	24 Parts:		
200-399	9.50	Jan. 1, 1985	0-199	11.00	Apr. 1, 1985
400-499	12.00	Jan. 1, 1985	200-499	19.00	Apr. 1, 1985
500-End	14.00	Jan. 1, 1985	500-699	6.50	Apr. 1, 1985
11	7.50	Jan. 1, 1985	700-1699	13.00	Apr. 1, 1985
12 Parts:			1700-End	9.00	Apr. 1, 1985
1-199	8.00	Jan. 1, 1985	25	18.00	Apr. 1, 1985
200-299	14.00	Jan. 1, 1985	26 Parts:		
300-499	9.50	Jan. 1, 1985	§§ 1.0-1.169	21.00	Apr. 1, 1985
500-End	14.00	Jan. 1, 1985	§§ 1.170-1.300	12.00	Apr. 1, 1985
13	13.00	Jan. 1, 1985	§§ 1.301-1.400	7.50	Apr. 1, 1985
14 Parts:			§§ 1.401-1.500	15.00	Apr. 1, 1985
1-59	16.00	Jan. 1, 1985	§§ 1.501-1.640	12.00	Apr. 1, 1984
60-139	13.00	Jan. 1, 1985	§§ 1.641-1.850	11.00	Apr. 1, 1985
140-199	7.50	Jan. 1, 1985	§§ 1.851-1.1200	22.00	Apr. 1, 1985
200-1199	15.00	Jan. 1, 1985	§§ 1.1201-End	22.00	Apr. 1, 1985
1200-End	8.00	Jan. 1, 1985	2-29	15.00	Apr. 1, 1985
15 Parts:			30-39	9.50	Apr. 1, 1985
0-299	6.50	Jan. 1, 1985	40-299	18.00	Apr. 1, 1985
300-399	13.00	Jan. 1, 1985	300-499	11.00	Apr. 1, 1985
400-End	12.00	Jan. 1, 1985	500-599	8.00	Apr. 1, 1980
27 Parts:			600-End	4.75	Apr. 1, 1985
1-199	18.00	Apr. 1, 1985	27 Parts:		
200-End	13.00	Apr. 1, 1985	1-199	18.00	Apr. 1, 1985
28	16.00	July 1, 1985	200-End	13.00	Apr. 1, 1985
29 Parts:			28	16.00	July 1, 1985
0-99	11.00	July 1, 1985	29 Parts:		
100-499	5.00	July 1, 1985	0-99	11.00	July 1, 1985
500-899	19.00	July 1, 1985	100-499	5.00	July 1, 1985
900-1899	7.00	July 1, 1985	500-899	19.00	July 1, 1985
1900-1910	21.00	July 1, 1985	900-1899	7.00	July 1, 1985
1911-1919	5.50	July 1, 1984	1900-1910	21.00	July 1, 1985
1920-End	20.00	July 1, 1985	1911-1919	5.50	July 1, 1984
30 Parts:			1920-End	20.00	July 1, 1985
0-199	16.00	July 1, 1985	30 Parts:		
200-699	6.00	July 1, 1985	0-199	16.00	July 1, 1985
700-End	13.00	July 1, 1985	200-699	6.00	July 1, 1985
31 Parts:			700-End	13.00	July 1, 1985
0-199	8.50	July 1, 1985	31 Parts:		
200-End	11.00	July 1, 1985	0-199	8.50	July 1, 1985
			200-End	11.00	July 1, 1985

Title	Price	Revision Date	Title	Price	Revision Date
<b>32 Parts:</b>			1000-3999	14.00	Oct. 1, 1984
1-39, Vol. I	15.00	* July 1, 1984	4000-End	8.50	Oct. 1, 1985
1-39, Vol. II	19.00	* July 1, 1984	44	13.00	Oct. 1, 1984
1-39, Vol. III	18.00	* July 1, 1984	<b>45 Parts:</b>		
1-189	13.00	July 1, 1985	1-199	9.50	Oct. 1, 1984
190-399	16.00	July 1, 1985	*200-499	7.00	Oct. 1, 1985
400-629	15.00	July 1, 1985	500-1199	13.00	Oct. 1, 1984
630-699	12.00	* July 1, 1984	1200-End	9.50	Oct. 1, 1984
700-799	15.00	July 1, 1985	<b>46 Parts:</b>		
800-999	7.50	July 1, 1985	1-40	9.50	Oct. 1, 1984
1000-End	5.50	July 1, 1985	41-69	9.50	Oct. 1, 1984
<b>33 Parts:</b>			70-89	5.50	Oct. 1, 1985
1-199	20.00	July 1, 1985	90-139	9.00	Oct. 1, 1984
200-End	14.00	July 1, 1985	140-155	9.50	Oct. 1, 1984
<b>34 Parts:</b>			156-165	10.00	Oct. 1, 1984
1-299	15.00	July 1, 1985	166-199	9.00	Oct. 1, 1984
300-399	8.50	July 1, 1985	200-499	13.00	Oct. 1, 1984
400-End	18.00	July 1, 1985	500-End	7.50	Dec. 31, 1984
35	7.00	July 1, 1985	<b>47 Parts:</b>		
<b>36 Parts:</b>			0-19	13.00	Oct. 1, 1984
1-199	9.00	July 1, 1985	20-69	14.00	Oct. 1, 1984
200-End	14.00	July 1, 1985	70-79	13.00	Oct. 1, 1984
37	9.00	July 1, 1985	80-End	14.00	Oct. 1, 1984
<b>38 Parts:</b>			<b>48 Chapters:</b>		
0-17	16.00	July 1, 1985	1 (Parts 1-51)	13.00	Oct. 1, 1984
18-End	11.00	July 1, 1985	1 (Parts 52-99)	13.00	Oct. 1, 1984
39	9.50	July 1, 1985	2	13.00	Oct. 1, 1984
<b>40 Parts:</b>			3-6	12.00	Oct. 1, 1984
1-51	16.00	July 1, 1985	7-14	14.00	Oct. 1, 1984
52	21.00	July 1, 1985	15-End	12.00	Oct. 1, 1984
53-80	23.00	July 1, 1985	<b>49 Parts:</b>		
81-99	18.00	July 1, 1985	1-99	7.50	Oct. 1, 1984
100-149	18.00	July 1, 1985	100-177	14.00	Nov. 1, 1984
150-189	13.00	July 1, 1985	178-199	13.00	Nov. 1, 1984
190-399	19.00	July 1, 1985	200-399	13.00	Oct. 1, 1984
400-424	14.00	July 1, 1985	400-999	13.00	Oct. 1, 1984
425-699	13.00	July 1, 1985	1000-1199	13.00	Oct. 1, 1984
700-End	8.00	July 1, 1985	1200-1299	13.00	Oct. 1, 1984
<b>41 Chapters:</b>			1300-End	3.75	Oct. 1, 1984
1, 1-1 to 1-10	13.00	* July 1, 1984	<b>50 Parts:</b>		
1, 1-11 to Appendix, 2 (2 Reserved)	13.00	* July 1, 1984	1-199	9.50	Oct. 1, 1984
3-6	14.00	* July 1, 1984	200-End	14.00	Oct. 1, 1984
7	6.00	* July 1, 1984	<b>CFR Index and Findings Aids</b>	18.00	Jan. 1, 1985
8	4.50	* July 1, 1984	<b>Complete 1985 CFR set</b>	550.00	1985
9	13.00	* July 1, 1984	<b>Microfiche CFR Edition:</b>		
10-17	9.50	* July 1, 1984	Complete set (one-time mailing)	155.00	1983
18, Vol. I, Parts 1-5	13.00	* July 1, 1984	Complete set (one-time mailing)	125.00	1984
18, Vol. II, Parts 6-19	13.00	* July 1, 1984	Subscription (mailed as issued)	165.00	1985
18, Vol. III, Parts 20-52	13.00	* July 1, 1984	Individual copies	3.75	1985
19-100	13.00	* July 1, 1984			
1-100	7.50	July 1, 1985			
101	19.00	July 1, 1985			
102-200	8.50	July 1, 1985			
201-End	5.50	July 1, 1985			
<b>42 Parts:</b>					
*1-60	12.00	Oct. 1, 1985			
61-399	7.00	Oct. 1, 1985			
400-End	18.00	Oct. 1, 1984			
<b>43 Parts:</b>					
1-999	9.50	Oct. 1, 1984			

\* No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

\* No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

\* No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

\* The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

\* The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.