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Thursday
August 13, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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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.

WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202-523-5239

Contents

Federal Register

Vol. 52, No. 156

Thursday, August 13, 1987

Agricultural Marketing Service
RULES
Tobacco inspection:
Tobacco, flue-cured; grade standards
Correction, 30280
PROPOSED RULES
Oranges (navel and Valencia) grown in Arizona and California, 30167

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Grain Inspection Service; Food and Nutrition Service; Food Safety and Inspection Service; Soil Conservation Service

Animal and Plant Health Inspection Service
RULES
Viruses, serums, toxins, etc.:
Experimental and exempted products, 30128
Inspections; detention, seizure and condemnation, 30132

Bonneville Power Administration
NOTICES
Pacific Northwest-Pacific Southwest Intertie access policy:
Near term, 30217

Coast Guard
RULES
Regattas and marine parades:
Gateway Power Boat Regatta, 30164
NOTICES
Committees; establishment, renewals, terminations, etc.:
Lower Mississippi River Waterway Safety Advisory Committee, 30274

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 30213, 30214
(4 documents)

Customs Service
NOTICES
Meetings:
User Fee Advisory Committee, 30277

Defense Department
NOTICES
Meetings:
Armed Forces Epidemiological Board, 30216
(2 documents)

Drug Enforcement Administration
PROPOSED RULES
Schedules of controlled substances:
2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex), 30174
N-ethyl MDA and N-hydroxy MDA, 30175
NOTICES
Applications, hearings, determinations, etc.:
Sigma Chemical Co., 30266
(2 documents)

Education Department
RULES
Bilingual education and minority language affairs:
Academic excellence program, 30322
Postsecondary education:
Cooperative education program
Correction, 30280
NOTICES
Grants; availability, etc.:
International research and studies program, 30216
Postsecondary education:
Guaranteed student loan, SLS, PLUS, and consolidation loan programs; special allowances; correction, 30280

Energy Department
See also Bonneville Power Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Western Area Power Administration
RULES
Restricted data; permits for access, 30138
NOTICES
Grants awards:
Stanford University, 30216

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Massachusetts, 30189
Hazardous waste program authorizations:
Maine, 30192
Water pollution control:
Ocean dumping; site designations—
Atlantic Ocean; Georgetown, SC, 30189

Executive Office of the President
See Presidential Documents

Family Support Administration
PROPOSED RULES
Grants:
State legalization impact assistance (Immigration Reform and Control Act; implementation), 30194

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 30279

Federal Aviation Administration
RULES
Airworthiness directives:
British Aerospace, 30143
Standard instrument approach procedures, 30144
PROPOSED RULES
VOR Federal airways, 30168
NOTICES
Meetings:
Aeronautics Radio Technical Commission, 30275
(3 documents)

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30279

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 30279

Federal Emergency Management Agency
NOTICES
Radiological emergency; State plans:
Illinois, 30250

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
First sales of pipeline production; order on remand, 30146
NOTICES
Environmental statements; availability, etc.:
Mono Lake Basin, CA and NV, 30219
Hydroelectric applications, 30221
Preliminary permits surrender:
Mega Renewables, 30222, 30223
(2 documents)
Small power production and cogeneration facilities; qualifying status:
Koppers Co., 30223
Applications, hearings, determinations, etc.:
Alamito Co. et al, 30223
Algonquin Gas Transmission Co., 30223
Appalachian Power Co., 30224
Arizona Public Service Co., 30224
Arkla Energy Resources, 30224
Carnegie Natural Gas Co., 30225
Colorado Interstate Gas Corp. et al., 30226
Delmarva Power & Light Co., 30233
Equitable Gas Co., 30233
Georgia-Pacific Corp., 30234
Great Lakes Gas Transmission Co., 30234
K N Energy, Inc., 30234
Mississippi River Transmission Corp., 30235
Nantahala Power & Light Co., 30235
National Fuel Gas Supply Corp., 30235
Natural Gas Pipeline Co. of America, 30235
Northern Natural Gas Co., 30236, 30237
(3 documents)
Northwest Alaskan Pipeline Co., 30237
Orange & Rockland Utilities, Inc., et al., 30238
Panhandle Eastern Pipe Line Co., 30238
Preussag Energy Venture et al., 30239
Shell Oil Co. et al., 30239
South Georgia Natural Gas Co., 30240
Southern California Gas Co., 30241
Trich, Wenert, 30241
Union Electric Co., 30241
United Gas Pipe Line Co., 30242
(2 documents)
Williams Natural Gas Co. et al., 30242
Williston Basin Interstate Pipeline Co., 30243, 30244
(3 documents)
Winnie Pipeline Co., 30244

Federal Grain Inspection Service
PROPOSED RULES
Grain standards:
Regulations review, 30167

Federal Home Loan Bank Board
RULES
Federal home loan bank system:
District membership, 30140
NOTICES
Receiver appointments:
Acadia Savings & Loan Association, 30250
(2 documents)

Federal Maritime Commission
NOTICES
Agreements filed etc., 30250

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Lincolnland Bancshares, Inc., 30251
New England Merchants Bancshares, Inc., et al., 30251

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Monensin blocks, 30150
Food additives:
Adjuvants, production aids, and sanitizers—
Thiodiethylene bis (3,5-di-tert-butyl-4-hydroxyhydrocinnamate), 30149
PROPOSED RULES
Infant formula recall requirements, 30171
NOTICES
Medical devices:
Diagnostic ultrasound guidance update; availability, 30252
Meetings:
Advisory committees, panels, etc., 30254

Food and Nutrition Service
RULES
Child nutrition programs:
National school lunch program, etc.—
Private school tuition limitation elimination, 30127

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
BHA and BHT in pizza toppings and meatballs, 30136

General Services Administration
RULES
Federal Information Resources Management Regulation:
Federal information processing standards, etc.; update
Correction, 30280

Health and Human Services Department
See Family Support Administration; Food and Drug Administration; Health Resources and Services Administration; Public Health Service; Social Security Administration

Health Resources and Services Administration
See also Public Health Service
NOTICES
Grants and cooperative agreements:
Acquired Immunodeficiency Syndrome (AIDS)—
Drug reimbursement program, 30255

Hearings and Appeals Office, Energy Department
NOTICES
Remedial orders:
Objections filed, 30244

Indian Affairs Bureau
RULES
Tribal government:
Enrollment appeals, 30159
NOTICES
Irrigation projects; operation and maintenance charges:
Blackfeet Irrigation Project, MT, 30257

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service

Internal Revenue Service
RULES
Procedure and administration:
Abatement of interest; ministerial act definition, 30162
PROPOSED RULES
Procedure and administration:
Abatement of interest; ministerial act definition, 30177
NOTICES
Organization, functions, and authority delegations:
Deputy Commissioners, 30278

International Trade Administration
NOTICES
Export trade certificates of review, 30215

Interstate Commerce Commission
RULES
Organization, functions, and authority delegations:
Technical amendments, 30165
NOTICES
Railroad operation, acquisition, construction, etc.:
NRUC Corp., 30262
Railroad services abandonment:
Union Pacific Railroad Co. et al., 30262

Justice Department
See also Drug Enforcement Administration
NOTICES
Cooperative agreements:
Alien minors detained in custody of INS, shelter care and other related child welfare services, 30262

Land Management Bureau
PROPOSED RULES
Oil and gas leasing:
Onshore drilling operations, 30310
Onshore operations; site security, seal requirements, etc., 30282
NOTICES
Meetings:
Lewistown District Advisory Council, 30260
Oil and gas leases:
Alaska, 30258
Realty actions; sales, leases, etc.:
California, 30258
Idaho, 30259
Oregon, 30259
Resource management plans, etc.:
Cascade Resource Area, ID, 30259
Survey plat filings:
Colorado, 30260

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Tenneco Oil Exploration & Production, 30261
TXP Operating Co., 30261

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 30279

National Highway Traffic Safety Administration
NOTICES
Grants; availability, etc.:
Research studies to evaluate impact of injuries on American society, 30275
Motor vehicle safety standards; exemption petitions, etc.:
Hose America, Inc., 30276

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic mackerel, squid, and butterfish, 30166
PROPOSED RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 30212

Nuclear Regulatory Commission
NOTICES
Abnormal occurrence reports:
Periodic reports to Congress, 30266
Agency information collection activities under OMB review, 30267
Meetings:
Reactor Safeguards Advisory Committee, 30267

Peace Corps
RULES
Conflict of interests, 30151

Presidential Documents
PROCLAMATIONS
Special observances:
Neighborhood Crime Watch Day, National (Proc. 5692), 30125

Public Health Service
See also Food and Drug Administration; Health Resources and Services Administration
NOTICES
Privacy Act; systems of records, 30255

Securities and Exchange Commission
RULES
Securities:
Printing amendments elimination and prospectus filing procedures revision
Correction, 30145
NOTICES
Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchange, Inc., 30267
Options Clearing Corp., 30268
Applications, hearings, determinations, etc.:
Bando McGlocklin Capital Corp., 30271
Hodgson Houses, Inc., 30273

Social Security Administration
PROPOSED RULES
Supplemental security income:
Optional State supplementary payments calculation, 30169

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Laurel Hill Creek Watershed, PA, 30213
Shelbyville Elks Lodge No. 457, IN, 30213

State Department
NOTICES
Meetings:
International Radio Consultative Committee, 30273
International Telegraph and Telephone Consultative Committee, 30274
(2 documents)
Passports, foreign; validity:
List update (Hong Kong), 30274

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration

Treasury Department
See also Customs Service; Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 30277
(2 documents)

Veterans Administration
PROPOSED RULES
Vocational rehabilitation and education:
Veterans education—
Temporary vocational training program for new pension recipients, 30178

Western Area Power Administration
NOTICES
Environmental statements; availability, etc.:
Conrad-Shelby 230 kV transmission line project, MT, 30244
Power rate adjustments:
Salt Lake City Area Integrated Projects, UT, 30245

Separate Parts In This Issue

Part II
Department of the Interior, Bureau of Land Management, 30282

Part III
Department of the Interior, Bureau of Land Management, 30310

Part IV
Department of Education, 30322

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
5692 30125

7 CFR
29 30280
210 30127
215 30127
220 30127
Proposed Rules:
800 30167
801 30167
802 30167
907 30167
908 30167

9 CFR
101 30128
102 30128
103 30128
104 30128
107 30128
114 30128
115 30132
118 30132
318 30136

10 CFR
725 30138

12 CFR
523 30140

14 CFR
39 30143
97 30144
Proposed Rules:
71 30168

17 CFR
229 30145
230 30145
239 30145
240 30145

18 CFR
2 30146
154 30146
157 30146
201 30146
270 30146
271 30146

20 CFR
Proposed Rules:
416 30169

21 CFR
178 30149
520 30150
Proposed Rules:
7 30171
1308 (2 documents) 30174, 30175

22 CFR
307 30151

25 CFR
62 30159

26 CFR
301 30162
602 30162
Proposed Rules:
301 30177

33 CFR
100 30164

34 CFR
502 30322
504 30322
524 30322
636 30280

38 CFR
Proposed Rules:
21 30178

40 CFR
Proposed Rules:
52 30189
228 30189
271 30192

41 CFR
201-8 30280

43 CFR
Proposed Rules:
3160 (2 documents) 30282, 30310

45 CFR
Proposed Rules:
16 30194
402 30194

49 CFR
1011 30165
1132 30165
1161 30165
1162 30165

50 CFR
655 30166
Proposed Rules:
611 30212
675 30212

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

Presidential Documents

Title 3—

The President

Proclamation 5692 of August 10, 1987

National Neighborhood Crime Watch Day, 1987

By the President of the United States of America

A Proclamation

Crime prevention is at the top of our Nation's public policy agenda for the simple reason that crime is still all too commonplace. Each year in America millions of our citizens face the stark reality of crime, suffering losses of property and injuries to personal health that exact from them and from all of us a terrible cost. Although new laws, more aggressive prosecution, swifter and more certain punishment, and programs to aid innocent victims are doing much to deter crime and to redress the harm it causes, our citizens continue to find new ways to work with law enforcement officials to prevent crime before it happens.

Passivity in the fight against crime is now passe. Across the Nation law-abiding citizens are banding together and, in close cooperation with the appropriate agencies of government, they are taking the initiative to protect themselves, their loved ones, and their neighborhoods. The effectiveness of this form of deterrence against crime has been proven in community after community, and it all boils down to one guiding principle—neighbors looking out for neighbors.

Twenty-two million American households were touched by crime last year—a staggering figure, but still the lowest in a decade. The decline that has taken place is certainly due in part to greater public awareness of crime and increased citizen participation in crime prevention activities. The statistics represent improved safeguarding of homes and property, but their real significance is the improved security and well-being of our people—the core values any society is constituted to protect.

We must do all we can to make more citizens aware of the importance of community crime watch programs and the impact they as individuals can have on the detection, reporting, discouragement, and solution of crimes. On August 11, 1987, a "National Night Out" campaign will be conducted to call attention to the importance of these programs. All Americans are urged to participate that evening by spending the hour between 8:00 p.m. and 9:00 p.m. on the lawns, porches, or steps in front of their homes, thereby emphasizing that looking out for one's neighbors is still the most effective form of crime prevention.

Participation in this nationwide event will also demonstrate the value and effectiveness of police and community cooperation in crime prevention. It will generate support for the worthwhile campaign the National Crime Prevention Council is conducting through its Crime Prevention Coalition. This Coalition, composed of organizations representing law enforcement, business, labor, minorities, the elderly, and various public interest groups, seeks to promote citizen involvement in crime watch activities and, through public service advertising and publications, provides information on how citizens can better protect themselves.

The Coalition's campaign features the trench-coated, floppy-eared dog, McGruff, popularized on radio and television and in newspapers and magazines. His message is basic and direct: We can all "Take a Bite Out of Crime" by playing a role in neighborhood block watches, citizen patrols, escort services for the elderly and the vulnerable, and similar activities and by taking a few simple precautions.

The Congress, by Senate Joint Resolution 121, has designated August 11, 1987, as "National Neighborhood Crime Watch Day" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 11, 1987, as National Neighborhood Crime Watch Day. I call upon the people of the United States to spend the period from 8:00 p.m. to 9:00 p.m. on that date with their neighbors in front of their homes to demonstrate support for community crime watch programs and to signal to criminals that neighborhoods are joining together to fight crime.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of August, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-18642
Filed 8-11-87; 4:36 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

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 Parts 210, 215, and 220

Elimination of the Private School Tuition Limitation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule eliminates the tuition limitation that previously prohibited private schools charging over $2,000 in annual tuition from participation in the school nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966. The programs affected are the National School Lunch Program, Part 210; the Special Milk Program, Part 215; and the School Breakfast Program, Part 220. This amendment is required by Pub. L. 100–71, which was enacted on July 11, 1987.

EFFECTIVE DATE: July 1, 1987.

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

SUPPLEMENTARY INFORMATION:

Classification

This rule eliminates the private school tuition limitation as specifically prescribed by statute and therefore is nondiscretionary. For this reason, the Administrator of the Food and Nutrition Service has determined, in accordance with 5 U.S.C. 553(b) and 553(d), that prior notice and comment are unnecessary and contrary to the public interest and that good cause exists for making the rule effective upon publication. Further, the rule relieves a restriction and pursuant to 5 U.S.C. 553(d) may be made effective upon publication.

This final rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

This action imposes no new reporting or recordkeeping requirements that are subject to Office of Management and Budget (OMB) review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The programs being amended are approved by OMB under the following control numbers: National School Lunch Program, 0584–0006; Special Milk Program, 0584–0005; and School Breakfast Program, 0584–0012.

The National School Lunch, Special Milk, and School Breakfast Programs are listed in the Catalog of Federal Domestic Assistance under No. 10.555, 10.556 and 10.553, respectively; and are subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and 48 FR 29112, June 24, 1983.)

Background

The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, excluded private schools with an average yearly tuition exceeding $1,500 per child from participating in the National School Lunch Program, Special Milk Program, and School Breakfast Program. Subsequently, Pub. L. 99–661 increased the private school tuition limit to $2,000 effective October 1, 1986 and provided for future indexing for inflation. The program regulations were amended to reflect the $2,000 limit on March 12, 1987 (52 FR 7559).

Current Legislation

Public Law 100–71 amended section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) and section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) to remove the tuition limitation previously imposed on private schools as a condition of eligibility for participation in the school nutrition programs. Public Law 100–71 specifies an effective date of July 1, 1987. Therefore, all private schools are now eligible to apply for participation in any of the school nutrition programs authorized under the Nation School Lunch Act and Child Nutrition Act.

List of Subjects

7 CFR Part 210

Food assistance programs, Nation School Lunch Program, Commodity School Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 215

Food assistance programs, Special Milk Program, Grant program—social programs, Nutrition, Children, Milk, Reporting and recordkeeping requirements.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, Parts 210, 215, and 220 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continue to read as follows:

Authority: Sec. 2–12, 60 Stat. 230, as amended; Sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779.

§ 210.2 [Amended]

2. Section 210.2 is amended as follows:

a. The definition, "High tuition private school" is removed;

b. In the definition of "School", the first sentence in paragraph (a) is amended by removing the semicolon after the word "buildings" and adding a period in its place and removing the remainder of the sentence; and

c. The definition "Tuition" is removed.

PART 215—SPECIAL MILK PROGRAM

1. The authority citation for Part 215 continues to read as follows:

Authority: Sec. 3, 10; 80 Stat. 885, 889, as amended (42 U.S.C. 1772, 1779).

§ 215.2 [Amended]

2. Section 215.2 is amended as follows:

a. Paragraph (k–1) "High tuition private school" is removed;

b. The first sentence in paragraph (v)(1) is amended by removing the semicolon after the word "buildings" and adding a period in its place and removing the remainder of the sentence; and

c. Paragraph (bb) "Tuition" including subparagraphs (1) and (2), and paragraph (cc) "Special needs children" are removed.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for Part 220 continues to read as follows:

Authority: Secs. 4 and 10, 80 Stat. 886, 889 (42 U.S.C. 1773, 1779).

§ 220.2 [Amended]

2. Section 220.2 is amended as follows:

a. Paragraph (j–1) "High tuition private school" is removed;

b. The first sentence in paragraph (u)(1) is amended by removing the semicolon after the word "buildings" and adding a period in its place and removing the remainder of the sentence; and

c. Paragraph (bb) "Tuition", including subparagraphs (1) and (2), and paragraph (cc) "Special needs children" are removed.

Date: August 5, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87–18522 Filed 8–12–87; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

9 CFR Parts 101, 102, 103, 104, 107, and 114

[Docket No. 87–029]

Viruses, Serums, Toxins, and Analogous Products; Experimental Products and Exempted Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Security Act of 1985 amended the Virus-Serum-Toxin Act of 1913 (VST Act) to give the Secretary of Agriculture jurisdiction over intrastate as well as interstate shipments of animal biologics, subject to certain exemptions. Products which are exported are now also subject to the Act. Under the VST Act, it is unlawful to import or to ship in or from the United States animal biologics that are worthless, contaminated, dangerous, or harmful. It is also unlawful to ship animal biologics which are manufactured within the United States and intended for use in the treatment of animals unless they are prepared in compliance with regulations prescribed by the Secretary in a properly licensed establishment.

This final rule amends the regulations in several respects so that they conform to the 1985 amendments of the Act. It prescribes exemptions relevant to products prepared by a person for administration to that person's own animals, and products prepared by a veterinarian solely for administration to animals under that veterinarian's client-patient relationship. It also prescribes exemptions relevant to those products which are prepared solely for distribution within the State of production pursuant to an approved State licensing program, and makes other conforming changes.

In order to assure that public concern for the environment, and the health and safety of both humans and animals are properly addressed, this amendment also addresses environmental aspects of the use of biological products, especially those containing live organisms.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6332.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1, and has been classified as a "Non-major Rule."

This action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will also not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

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. Its purpose is to prescribe procedures and criteria with respect to exemptions and other provisions mandated by the Virus-Serum-Toxin Act, as amended.

Background

In amending the Virus-Serum-Toxin Act of 1913 (VST Act), the Food Security Act of 1985 expanded the Department's authority over veterinary biologics in several respects. Under the amended statute, it is unlawful to ship or deliver for shipment any worthless, contaminated, dangerous, or harmful veterinary biologic intended for use in the treatment of animals anywhere in or from the United States. The preparation of such products in the District of Columbia, the Territories, or in any place under the jurisdiction of the United States is also prohibited. Previously, intrastate shipments and exports were not subject to the VST Act. It is also unlawful (subject to certain exemptions) to ship veterinary biologics, manufactured within the United States and intended for use in the treatment of animals, in or from the United States, unless they were prepared in compliance with regulations prescribed by the Secretary of Agriculture in an establishment licensed by the Secretary. Products prepared in the District of Columbia, in the Territories, or in any

place under the jurisdiction of the United States must be prepared pursuant to a license. The amendment expands the Secretary's rulemaking authority by authorizing the promulgation of any rules and regulations deemed necessary to carry out the purposes of the Act (the main purpose being to prevent the distribution of worthless, contaminated, dangerous or harmful veterinary biologics for use in the treatment of animals, *i.e.*, diagnosis, prevention, and cure of disease). The Secretary is also authorized to inspect any establishment preparing animal biologics at any hour, day or night. Previously, only licensed establishments were subject to such inspection. Additionally, the amended statute contains provisions for detention, seizure, and condemnation of products. It also provides for injunctive relief and penalties for assaulting or resisting Department officials during their performance of official duties under the Act.

The current regulations in 9 CFR 103.3 contain widely used provisions for the interstate shipment of unlicensed biological products for experimental use in domestic animals for the purpose of evaluating such products. These products have been shipped for a variety of reasons, but mainly for field safety studies prior to licensing and release of the products for use in the general treatment of animals. Because of the expanded jurisdiction under the 1985 amendment to the VST Act, this revision amends § 103.3 of the regulations by deleting the reference to interstate shipments and by adding a provision for exports. This will have the effect of making the provisions of the section applicable to all shipments subject to the Act. The shipment of unlicensed biological products for experimental treatment of animals anywhere in or from the United States is prohibited without prior authorization by the Deputy Administrator. Requests for authorization must be accompanied by information specified in the regulations, including information relevant to the product's effect on the environment. Additional safeguards and tests may be required in the case of products which contain live organisms and which are prepared either through conventional means or through the use of biotechnology. For the purposes of the VST Act, the term "ship" shall be used in its broadest sense. It shall mean transportation by any means from one place to another and shall be synonymous with delivering for shipment.

Part 104 is amended by revising § 104.4 pertaining to biological products imported for research and evaluation. Section 104.4(a) is revised by stating that a permittee may be required to provide any information needed to properly assess an imported product's impact on the environment. Section 104.4(b) is amended by prohibiting any permittee or research investigator from shipping a product, imported under § 104.4, in or from the United States unless authorization to do so is obtained pursuant to the provisions of § 103.3 of the regulations.

The 1985 amendment of the VST Act provides that the Secretary shall exempt by regulation from the requirement of preparation pursuant to a license any animal biologics prepared by a person, firm, or corporation: (1) Solely for administration to animals of such person, firm, or corporation; (2) solely for administration to animals under a veterinarian-client-patient relationship in the course of such person's, firm's, or corporation's practice of veterinary medicine; and (3) solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Secretary to meet certain specified criteria. Certain provisions of the Act are still applicable to such animal biologics, regardless of whether or not they are exempted from the licensing provisions. Anyone shipping products which are worthless, contaminated, dangerous, or harmful is subject to the sanctions under the Act, including detention, seizure, and condemnation. A new Part 107 provides for the exemptions specified in the amendment to the Act. The regulations include conditions to be met in order to establish a valid veterinarian-client-patient relationship. Such conditions have been established under the Federal Food, Drug, and Cosmetic Act for the purpose of applying the prescription drug restraints and have been accepted by the American Veterinary Medical Association. Veterinarians preparing products subject to the exemption under the Act will be required to maintain and make available for inspection such records as are necessary to establish that a valid veterinarian-client-patient relationship exists. Prior to the shipment of products which contain live organisms and which are prepared either through conventional means or through the use of biotechnology, or at any other time deemed necessary, persons exempt from licensure will be required to provide any information necessary to determine the products' safety and effect on the environment. This final rule has been clarified to properly reflect these requirements.

Section 107.2 of the regulations addresses the criteria to be met by State licensing programs in order that State licensed products may be eligible for the statutory exemption. This provision of the regulations specifies that appropriate State officials are responsible for providing the Agency with information to assure compliance with the provisions of the Act. The State officials will be required to identify each manufacturer and each product to be considered for exemption. Provisions for review of procedures used by State regulatory officials and on-site evaluation of facilities and products to be exempted are also included in the regulations.

The current regulations in 9 CFR 114.2(c) provide that, except for experimental products prepared in compliance with Part 103, no biological products may be prepared in a licensed establishment unless the person holding the establishment license also holds an unexpired, unsuspended, and unrevoked product license for each product. Section 114.2(b) provides that when an establishment license is issued for an interim period not to exceed 4 years, the establishment may continue preparing certain specified unlicensed products provided, that: (a) Such products were prepared in the establishment within the 12-month period prior to issuance of the establishment license; (b) the unlicensed products are not distributed interstate; (c) no new unlicensed products are prepared after issuance of the establishment license; and (d) other specified requirements are satisfied. By the end of the interim licensure period, all products in the establishment must be licensed. The purpose of § 114.2(b) is to give intrastate producers an opportunity to become licensed without being required to immediately remove all intrastate products from their premises.

The VST Act, as amended, requires that all veterinary biologics (with the exception of certain exempt products) shipped in or from the United States must be produced pursuant to a license. However, the Act provides that products prepared for intrastate distribution or exportation during the 12-month period prior to the enactment of the Act (December 23, 1985) may continue to be produced and sold until January 1, 1990, *Provided*, that, an exemption from preparation pursuant to a license was claimed by January 1, 1987. That exemption may then be extended by the Deputy Administrator for up to 12 months. In light of this provision,

establishment licenses issued for an interim period under § 114.2(b) will only be effective until January 1, 1990 (or where an exemption is extended, until the exemption expires). All unlicensed products produced for intrastate distribution or for export are subject to the exemption provision of the Act.

Therefore, § § 114.2(b) and 102.4(h) are amended to provide for interim licensure until January 1, 1990, unless the exemption granted for the unlicensed products produced in the establishment under § 114.2(b) is extended by the Deputy Administrator. In such case, the interim license shall continue until the exemption expires. Other conforming amendments are also made.

The definition of research investigator or research sponsor in § 101.2 of the regulations is amended to conform to the new authority under the Act by deleting reference to "interstate" movement.

Comments Received

On November 20, 1986, a notice of proposed rulemaking was published in the **Federal Register** at 51 FR 41975 discussing these revisions and soliciting comments.

Comments were received from a State Veterinarian, a national trade association which includes among its members the major manufacturers of veterinary biological products, three licensed manufacturers of veterinary biological products, and two consultants to biologics manufacturers.

One commenter expressed concerns regarding the provisions in the Act that veterinary biologics prepared solely for administration to one's own animals would be exempted from preparation pursuant to a license. The commenter was concerned that this exemption would lead to serious abuses of the Act, especially with respect to biological products used in poultry operations, since the question of ownership may be subject to interpretation.

It is common practice in the poultry industry for integrated poultry producers to contract with growers to raise poultry. In these situations, the integrater provides chicks, technical expertise, medications (including vaccines), and other services. The growers provide housing, labor, equipment, water, heat and electricity. The growers are paid through various contractual agreements to raise the birds. The integrater assumes financial responsibility for losses due to expected morbidity and mortality occurring in the flocks. In such contractual agreements, the integrater has "Title of Ownership" and does not transfer ownership of the birds to the farmer. The integrater is said to own the poultry. Therefore, the exemption for veterinary biological products prepared solely for use in one's own animals would apply. These products are exempted from preparation pursuant to a license. However, they are subject to all the Act's prohibitions against shipping products which are worthless, contaminated, dangerous, or harmful. The Act gives to the Agency the authority to seize, detain, and condemn products that are in violation of these requirements.

Three comments were received regarding Part 107, Exemption From Preparation Pursuant to An Unsuspended and Unrevoked License. Section 107.1(a) addresses products prepared by a veterinary practitioner solely for administration to animals in a state-licensed professional practice of veterinary medicine under a veterinarian-client-patient relationship. The conditions to be met in order to establish a valid veterinarian-client-patient relationship are specified in § 107.1(a) of the regulations. These conditions are analogous to those established under the Food, Drug and Cosmetic Act and have been accepted by the American Veterinary Medical Association.

Section 107.2 of the regulation addresses the statutory exemptions relevant to veterinary biological products prepared under a state licensing program. Commenters recommended that this section should make reference to the prohibitions in the Act regarding worthless, contaminated, dangerous or harmful products, and that periodic inspections or on-site evaluations should be provided for. Section 107.2 states that the exemption regarding state licensed products shall be consistent with the intent of the Act to prohibit the sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful products. Also, § 107.2(d) does not limit the number of site evaluations or inspections. Policy and procedures are being developed to assure that state licensing programs subject to section 107 are consistent with requirements of the Act and regulations. The Agency is also developing policies and procedures for monitoring the distribution of exempted products.

Three commenters thought that the special restriction provision and the requirement that applicants submit environmental information in § 103.3 are overly broad. The section as proposed gives the Deputy Administrator the authority to impose special restrictions or tests when deemed necessary. The preamble to the proposed rules states that additional safeguards and tests may be required in the case of products which contain live organisms prepared either through conventional means or through the use of new biotechnology methods. The commenters suggested that § 103.3 be narrowed to a reasonable extent to be consistent with the preamble. It is anticipated that in the majority of cases special restrictions and additional tests would be imposed in the case of products containing live organisms which have been genetically modified. Therefore, this final rule, as modified, contains the statement that such special restrictions and tests may be imposed, especially in the case of products which contain live organisms. However, the Deputy Administrator retains the option of requiring them in other cases when necessary or advisable.

Section 103.3 also requires the submission of any information the Deputy Administrator may need in order to assess the product's impact on the environment. When such assessment is performed, each product is assessed individually on a case by case basis. As scientific knowledge advances, such advancements should be reflected in regulating affected products by requiring more data when necessary and relaxing requirements when possible. Most, if not all, necessary environmental information is routinely submitted by applicants for permits to do field studies under § 103.3 as part of the data which is reviewed for the purposes of the permit. The review process for live viral vaccines has always included considerations such as the purity of ingredients, primary cells, cell lines, and master seed virus. Information regarding genetic stability of cell lines and genetic stability of the vaccine by demonstrating nonpathogenicity and nonreversion to virulence through a significant number of backpassages in host animal has also been included in the review of live viral vaccines. When considered necessary in a particular case, the Agency has requested data for live products to include studies to determine the fate of the organism when injected into the host and its ability to shed, transmit, and maintain itself in a livestock population. Most, if not all, of this information is required to be submitted by applicants for permit under § 103.3. The specific intent of § 103.3(h) is to assure that any additional information not already made available during the application process is submitted for purposes of an environmental assessment.

There was also a question and comments with respect to products that

would be exempted from being prepared pursuant to a license. The commenters expressed uncertainty regarding whether license refers to a product or to an establishment license, and one commenter stated that it would be unnecessary to require an establishment license of a person making only exempted products. It is the Agency's view that the exemption from preparation pursuant to a license encompasses both the establishment and product licenses. Therefore, language is added to § 107.1 and 107.2 to clarify this concept.

List of Subjects in 9 CFR Parts 101, 102, 103, 104, 107, and 114

Animal biologics.

After consideration of all relevant matters, including the comments on the proposed rulemaking, and under the authority of the Virus-Serum-Toxin Act of March 4, 1913, as amended by the Food Security Act of 1985 (21 U.S.C. 151–159), the amendments of Parts 101, 102, 103, 104, 114, and the addition of new Part 107, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations are adopted as follows:

PART 101—DEFINITIONS

1. The authority citation for Part 101 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 101.2 is amended by revising paragraph (o) to read as follows:

§ 101.2 Administrative terminology.

* * * * *

(o) *Research investigator or research sponsor.* A person who has requested authorization to ship an experimental biological product for the purpose of evaluating such product, or has been granted such authorization.

* * * * *

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

1. The authority citation for Part 102 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 102.4 is amended by revising paragraphs (h)(1) and (h)(2) to read as follows:

§ 102.4 U.S. Veterinary Biologics Establishment License.

* * * * *

(h) * * *

(1) The U.S. Veterinary Biologics Establishment License issued for an interim period shall expire January 1, 1990, unless an extension for exemption from licensing under the Act of products prepared solely for intrastate shipment or export is granted by the Deputy Administrator pursuant to § 114.2(d)(3) of this subchapter. In such case, the licensee may retain the interim license until the exemption period ends.

(2) Prior to the expiration of the interim license, the licensee may request issuance of a license for an indefinite period by application as provided in § 102.3 of this part.

* * * * *

PART 103—EXPERIMENTAL PRODUCTION, DISTRIBUTION, AND EVALUATION OF BIOLOGICAL PRODUCTS PRIOR TO LICENSING

1. The authority citation for Part 103 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. The section heading, introductory text, and paragraph (a) of § 103.3 are revised and a new paragraph (h) is added as follows:

§ 103.3 Shipment of experimental biological products.

Except as provided in this section, no person shall ship or deliver for shipment in or from the United States, the District of Columbia, or any Territory of the United States any unlicensed biological product for experimental use in animals. For the benefit of license applicants and to permit and encourage research, a person may be authorized by the Deputy Administrator to ship unlicensed biological products for the purpose of evaluating such experimental products by treating limited numbers of animals, *Provided*, that, the Deputy Administrator determines that the conditions under which the experiment is to be conducted are adequate to prevent the spread of disease and approves the procedures set forth in the request for such authorization. Special restrictions or tests may be imposed, especially in the case of products containing live organisms, when they are deemed necessary or advisable by the Deputy Administrator. A request for authorization to ship an unlicensed biological product for experimental study and evaluation shall be accompanied by the following:

(a) One copy of a permit or letter of permission from the proper State or foreign animal health authorities of each State or foreign country involved.

* * * * *

(h) Any information the Deputy Administrator may require in order to assess the product's impact on the environment.

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

1. The authority citation for Part 104 is revised to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).)

2. Section 104.4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 104.4 Products for research and evaluation.

(a) An application for a U.S. Veterinary Biological Product Permit to import a biological product for research and evaluation shall be accompanied by a brief description of such product, methods of propagating antigens including composition of medium, species of animals or cell cultures involved, degree of inactivation or attenuation, recommendations for use, and the proposed plan of evaluation. The applicant shall also provide any information the Deputy Administrator may require in order to assess the product's impact on the environment.

(b)(1) A permit to import a biological product for research and evaluation shall not be issued unless the scientific capabilities of the investigator are determined to be adequate to safeguard domestic animals and protect public health, interest, or safety from any deleterious effects which might result from use of such product. Special restrictions or tests may be specified as part of the permit when they are deemed necessary or advisable by the Deputy Administrator.

(2) No person shall ship a product imported under this section for research and evaluation anywhere in or from the United States unless authorized by the Deputy Administrator in accordance with the provisions of § 103.3 of this subchapter.

* * * * *

1. A new Part 107 is added to Subchapter E to read as follows:

PART 107—EXEMPTIONS FROM PREPARATION PURSUANT TO AN UNSUSPENDED AND UNREVOKED LICENSE

Sec.

107.1 Veterinary practioners and animal owners.
107.2 Products under State license.

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

§ 107.1 Veterinary practitioners and animal owners.

Products prepared as provided in paragraphs (a) and (b) of this section and establishments in which such

products are prepared, shall be exempt from preparation pursuant to unsuspended and unrevoked establishment and product licenses. Persons exempt from licensure under this part shipping products which contain live organisms shall provide any information the Deputy Administrator may require prior to shipment, or at any other time deemed necessary, in order to assess the products' safety and effect on the environment. The shipment or delivery for shipment anywhere in or from the United States of any exempted product which is worthless, contaminated, dangerous, or harmful is prohibited, and any person shipping such product, or delivering such product for shipment, shall be subject to sanctions under the Act.

(a)(1) Products prepared by a veterinary practitioner (veterinarian) solely for administration to animals in the course of a State licensed professional practice of veterinary medicine by such veterinarian under a veterinarian-client-patient relationship and establishments in which such products are prepared shall be exempt from licensing under the Act and regulations. Such a relationship is considered to exist when:

(i) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) and the need for medical treatment, and the client (owner or other caretaker) has agreed to follow the instructions of the veterinarian; and when

(ii) There is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept; and when

(iii) The practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen.

(2) Veterinarians preparing products subject to the exemption for products under this section shall maintain and make available for inspection by Veterinary Services representatives or other Federal employees designated by the Secretary such records as are necessary to establish that a valid veterinarian-client-patient relationship exists and that there is a valid basis for the exemption under this section.

(b) Products prepared by a person solely for administration to animals owned by that person shall be exempt from the requirement that preparation be pursuant to an unsuspended and unrevoked license.

§ 107.2 Products under State license.

(a) The Deputy Administrator shall exempt from the requirement of preparation pursuant to an unsuspended and unrevoked USDA establishment and product license, any biological product prepared solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Deputy Administrator to be consistent with the intent of the Act to prohibit the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful biological products.

(b) A request for exemption under this section must be made by the appropriate State authority and shall include information demonstrating that:

(1) The State has the authority to license viruses, serums, toxins, and analogous products and establishments that produce such products; and

(2) The State has the authority to review the purity, safety, potency, and efficacy of such products prior to relase to the market; and

(3) The State has the authority to review product test results to assure compliance with applicable standards of purity, safety, and potency prior to release to the market; and

(4) The State has the authority to deal effectively with violations of State law regulating viruses, serums, toxins, and analogous products; and

(5) The State effectively exercises the authority specified in paragraphs (b) (1) through (4) of this section consistent with the intent of the Act prohibiting the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful viruses, serums, toxins, or analogous products.

(c) Each product to be exempted and each establishment preparing such product shall be identified by the State and the State shall give written notification to the Deputy Administrator of each such product and establishment. The State shall also give written notice ot the Deputy Administrator of each new license issued and of each license terminated.

(d) In order to determine whether a State exercises its authority with respect to biological products and establishments and whether its laws and regulations are being achieved, the Deputy Administrator, in cooperation with proper State authorities, may conduct an on-site evaluation of the State's program which may include inspection of establishments and/or products to be included under the exemptions in this section.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

1. The authority citation for Part 114 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 114.2, paragraphs (b) introductory text, (b)(1), (b)(9) and (c) are revised to read as follows:

§ 114.2 Products not prepared under license.

* * * * *

(b) An establishment license may be issued for an interim period not to extend beyond January 1, 1990. The establishment holding an interim license may continue preparing certain specified unlicensed biological products with the permission of the Deputy Administrator; *Provided*, that:

(1) Such unlicensed products had been prepared in the establishment within the 12 months prior to December 23, 1985.

* * * * *

(9) An exemption has been claimed for the unlicensed products produced in the establishment pursuant to § 114.2(d) of this subchapter.

(c) Except as provided in Part 103 and paragraph (b) of this section, a biological product shall not be prepared in a licensed establishment unless the person to whom the establishment license is issued holds an unexpired, unsuspended, and unrevoked product license issued by the Deputy Administrator to prepare such biological product, or unless the products prepared are subject to the provisions of § 107.2 of this subchapter.

Done at Washington, DC, this 6th day of August 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 87–18406 Filed 8–12–87; 8:45 a.m.]

BILLING CODE 3410-34-M

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9 CFR Parts 115 and 118

[Docket No. 87–028]

Viruses, Serums, Toxins, and Analogous Products; Inspections; Detention, Seizure, and Condemnation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Virus-Serum-Toxin Act of 1913 (VST Act), as amended by the Food Security Act of 1985, authorizes

any officer, agent, or employee of the Department of Agriculture to enter and inspect any establishment preparing animal biologics at any hour, day or night. Previously, only licensed establishments were subject to this provision. The amendment also provides for detention, seizure, and condemnation of products. This amendment of the regulations adds the expanded inspection authority to Part 115, and establishes a new Part 118 entitled, "Detention, Seizure, and Condemnation."

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6332.

SUPPLEMENTARY INFORMATION:

This rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The action will not have a significant effect on the economy and will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not result in adverse economic impact on a substantial number of small entities. Its purpose is to implement new enforcement provisions contained in the 1985 amendments to the VST Act.

Background

Part 115 of the regulations is amended to provide for the expanded inspection authority under the VST Act. It is revised to state that any establishment (rather than only a licensed establishment) which prepares biological products is subject to inspection at any time, day or night.

New enforcement authority was also provided by the 1985 amendment to the Act which incorporated the procedures of sections 402, 403, and 404 of the Federal Meat Inspection Act. These procedures, which relate to detentions, seizures, condemnations, and injunctions are applicable to the enforcement of the VST Act with respect to any animal biological prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations.

This rule establishes a new Part 118 entitled Detention; Seizure; and Condemnation. It is modeled after the regulations under the Federal Meat Inspection Act (9 CFR 329.1 et seq.) The period of detention will not exceed 20 days. The owner of the veterinary biologic or the owner's agent, or other person having custody of the product, will be given written notice of the detention. Movement of the detained product may be allowed in accordance with the regulations. The procedures to be followed in seizing and condemning biological products are those which are specified in section 403 of the Federal Meat Inspection Act.

Comments Received

On November 4, 1986, a notice of proposed rulemaking was published in the **Federal Register** at 51 FR 40030, discussing these revisions and soliciting comments.

Comments were received from a State Veterinarian who vigorously supported the proposed rulemaking. Other comments were from a trade association which includes among its members major manufacturers of veterinary biologicals, a trade association representing intrastate biological laboratories, two licensed manufacturers, and a consultant to biologics manufacturers. These generally supported the proposed rulemaking and raised the following issues.

One licensed manufacturer agreed with the proposal and suggested that the word "licensed" be removed from the title of § 115.1 to agree with the intent of the revisions. The Agency agrees with this comment and the title is modified as suggested.

In commenting on proposed § 115.1(a), three commenters suggested that the authority to inspect any establishment where biological products are prepared at any hour during the day or night is undesirable and too broad. It was suggested this authority be deleted or amended in order to be more reasonable. In order to carry out the

intent of the Act, the Agency is required to conduct initial, routine, and special inspections of establishments and products. Usually initial inspections are scheduled with the establishment in advance. Routine inspections, and in most cases, special inspections are unannounced and conducted during normal duty hours. The Agency has no plans to change this policy in conducting the majority of its inspections. However, there have been instances when it has been necessary to carry out inspections either at night and on week-ends. The language in § 115.1(a) regarding inspections authority is based on the language of the Act and will remain as proposed.

There were two comments with regard to § 115.2-Inspection of Biological Products. They both questioned why the language "Any biological product, the container of which bears a United States Veterinary License Number of a United States Permit Number or other mark required by the regulations, may be inspected at any time or place" was no changed to state that any product may be inspected at any time or place. The Virus-Serum-Toxin Act does not grant authorty to inspect any product at any time or place. The amendment of § 115.2 removes unnecessary language and revises the language referring to shipments at the end of the section to properly reflect the new authority under the Act.

One commenter pointed out that Parts 105, 115, and new Part 118, are in many instances similar in their practical effect, and asked that there be some cross-referencing. It is true that the specified regulations are similar insofar as they are intended to prevent the preparation, sale, or shipment of biological products in violation of the Act or regulations. Part 105 deals specifically with license suspensions and revocations; Part 115 deals with inspections; and the new Part 118 deals with detention, seizure, and condemnation. The parts are related but independent of each other. However, there can be some interplay between them. Therefore, § 115.2 is further revised by the addition of a reference to new Part 118.

List of Subjects in 9 CFR Parts 115 and 118

Animal biologics.

After consideration of all relevant matters, including the comments on the proposed rulemaking, and under the authority of the Virus-Serum-Toxin Act of March 4, 1913, as amended by the Food Security Act of 1985 (21 U.S.C. 151–159) the amendment of Part 115 and the addition of new Part 118, Subchapter E, Chapter I, Title 9, Code of Federal Regulations, are adopted as follows:

PART 115—INSPECTIONS

1. The authority citation for Part 115 continues to read as follows:

Authority: 21 U.S.C. 151–159; 37 Stat. 832–833.

2. Part 115 is amended by revising §§ 115.1 and 115.2 to read as follows:

§ 115.1 Inspections of establishments.

(a) Any inspector shall be permitted to enter any establishment where any biological product is prepared, at any hour during the day or night, and shall be permitted to inspect, without previous notification, the entire premises of the establishment, including all buildings, compartments, and other places, all biological products, and organisms and vectors in the establishment, and all materials and equipment, such as chemicals, instruments, apparatus, and the like, and the methods used in the manufacture of, and all records maintained relative to, biological products produced at such establishment.

(b) Each inspector will have in his or her possession a numbered USDA badge or identification card. Either shall be sufficient identification to entitle him/her to admittance at all regular entrances and to all parts of such establishment and premises and to any place at any time for the purpose of making an inspection pursuant to paragraph (a) of this section.

§ 115.2 Inspections of biological products.

Any biological product, the container of which bears a United States veterinary license number or a United States veterinary permit number or other mark required by these regulations may be inspected at any time or place. If, as a result of such inspection, it appears that any such product is worthless, contaminated, dangerous or harmful, the Secretary shall give notice thereof to the manufacturer or importer and to any jobbers, wholesalers, dealers or other persons known to have any of such product in their possession, and may proceed against such product pursuant to the provisions of Part 118 of this subchapter. Unless and until the Secretary shall otherwise direct, no persons so notified shall thereafter sell, barter, or exchange any such product in any place under the jurisdiction of the United States or ship or deliver for shipment any such product in or from any State, Territory, or the District of Columbia. However, failure to receive such notice shall not excuse any person

from compliance with the Virus-Serum-Toxin Act.

3. A new Part 118 is added to Subchapter E to read as follows:

PART 118—DETENTION; SEIZURE AND CONDEMNATION

Sec.

118.1 Administrative detention.
118.2 Method of detention; Notifications.
118.3 Movement of detained biological products; Termination of detention.
118.4 Seizure and condemnation.

Authority: 21 U.S.C. 151–159; 99 Stat 1654–1656.

§ 118.1 Administrative detention.

Whenever any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations is found by any authorized representative of the Deputy Administrator upon any premises, it may be detained by such representative for a period not to exceed 20 days, pending action under § 118.4, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative.

§ 118.2 Method of detention; Notifications.

An authorized representative of the Deputy Administrator shall detain any biological product subject to detention under this part by:

(a) Giving oral notification to the owner of the biological product if such owner can be ascertained, and, if not, to the agent representing the owner or to the immediate custodian of the biological product; and

(b) Promptly furnishing the person so notified with a preliminary notice of detention which shall include identity and quantity of the product detained, the location where detained, the reason for the detention, and the name of the authorized representative of the Deputy Administrator.

(c) Within 48 hours after the detention of any biological product, an authorized representative of the Deputy Administrator shall, if the detention is to continue, give written notification to the owner of the biological product detained by furnishing a written statement which shall include the identity and quantity of the product detained, the location where detained, specific description of the alleged noncompliance including reference to the provisions in the Act or the regulations which have resulted in the detention, and the identity of the authorized representative of the Deputy Administrator; or, if such owner cannot be ascertained and notified within such period of time, furnish such notice to the agent representing such owner, or the carrier or other person having custody of the biological product detained. The notification, with a copy of the preliminary notice of detention shall be served by either delivering the notification to the owner or to the agent or to such other person, or by certifying and mailing the notification, addressed to such owner, agent, or other person, at the last known residence or principal office or place of business.

§ 118.3 Movement of detained biological products; Termination of detention.

Except as provided in paragraphs (a) and (b) of this section, no biological product detained in accordance with the provisions in this part shall be moved by any person from the place at which such product is located when it is detained.

(a) A detained biological product may be moved from the place at which it is located when so detained for the purpose of providing proper storage conditions if such movement has been approved by an authorized representative of the Deputy Administrator; *Provided,* that, the biological product so moved shall be detained by an authorized representative of the Deputy Administrator after such movement.

(b) A detained biological product may be moved from the place at which it is detained on written notification by an authorized representative of the Deputy Administrator that the detention is terminated; *Provided,* that, the conditions under which the detained biological product may be moved will be specified in the written notification of the termination. The notification of termination shall be served by either personally delivering the notification, or by certifying and mailing the notification addressed to such person at the last known residence or principal office or place of business of the owner, agent, or other person having custody of the biological product.

§ 118.4 Seizure and condemnation.

Any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court within the jurisdiction of which the product is found. If the product is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United

States, but the product shall not be sold contrary to the provisions of the Act or the laws of the jurisdiction in which it is sold: *Provided*, that, upon the execution and delivery of a good and sufficient bond conditioned that the product shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws or jurisdiction in which disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representatives of the Deputy Administrator as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the product and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the product. The proceedings in such libel cases shall conform, as nearly as may be practicable, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

Done at Washington, DC, this 6th day of August, 1987.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 87-18405 Filed 8-12-87; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 85-031F]

BHA and BHT in Pizza Toppings and Meatballs

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations to permit the use of Butylated Hydroxyanisole and Butylated Hydroxytoluene as antioxidants in cooked or raw pizza toppings and cooked or raw meatballs. The Food and Drug Administration (FDA) has listed these substances as generally recognized as safe (GRAS) for use in foods under certain conditions. The petitioners have supplied FSIS with sufficient information to satisfy the requirements of the Federal meat inspection regulations to permit the requested use (9 CFR 318.7(a)(2)). The Administrator has determined that it is appropriate to add pizza toppings and meatballs to the list of products permitted to contain BHA and BHT as added antioxidants.

EFFECTIVE DATE: September 14, 1987.

ADDRESS: Written comments to United States Department of Agriculture, Food Safety and Inspection Service, Attn: FSIS Hearing Clerk, Room 3168, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Ms. Margaret O'K Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this rule is not a "major rule." It will not result in an annual increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have a significant effect on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule provides for the use of Butylated Hydroxyanisole (BHA) and Butylated Hydroxytoluene (BHT) as antioxidants in cooked or raw pizza toppings and meatballs. The Federal meat inspection regulations currently provide for their use in beef patties which are similar in composition to pizza toppings and meatballs. The regulated industry will benefit from this action through ability to use these antioxidants in a wider variety of products to increase their shelf life.

Effect on Small Entities

The Administrator has determined that his action will not have a significant economic impact upon a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This rule will impose no new requirements on industry; it allows meat processors to use BHA and BHT in pizza toppings and meatballs to increase their shelf life.

Comments

This is a final rule consistent with the provisions of § 318.7(a) (2) and (3) of the Federal meat inspection regulations. As such, no prior request for public

comments is required (See "Background" for rationale). However, interested persons may inform the Department of any available data which raise questions about this action within the 30 day period between publication and the effective date of this rule.

Background

FSIS has been petitioned by Tony's Pizza Service, Salina, KS, and Rotanelli Foods, Inc., New Rochelle, NY, to permit the use of BHA (Butylated Hydroxyanisole) and BHT (Butylated Hydroxytoluene) as antioxidants in cooked or raw pizza toppings and cooked or raw meatballs in an amount not to exceed 0.02% in combination based on the fat content.

The petitioners maintain that since BHA and BHT have been approved as GRAS and as permissible food additives by the FDA and are currently allowed in various types of fresh, cooked and dried meats by FSIS, it is reasonable to permit their use in pizza toppings and meatballs.

Issuance of Final Rule

On July 19, 1983, FSIS published in the **Federal Register** (48 FR 32749) a final rule on new procedures to be used for the approval of added substances in meat and poultry products. Under that rule, applicants are required to show (1) that a proposed added substance has been previously approved by FDA as GRAS or as a food additive or color additive in meat or poultry food products and (2) that the substance is listed in Title 21 of the Code of Federal Regulations, Parts 73, 74, 81, 172, 173, 182, or 184. BHA and BHT are listed in 21 CFR 182.3169 and 182.3173, respectively, for use in food when the total content of antioxidants is not over .02 percent of the fat or oil content.

The Administrator of FSIS concurs with FDA's conclusions regarding the safety of BHA and BHT. He further finds in accordance with the procedure in 9 CFR 318.7(a) (2) and (3) that information provided by the petitioner in addition to other available data indicate that (a) the use of these substances will have an appropriate technical effect on the product; (b) the substances will be used at the lowest level necessary to accomplish their intended technical effect and their uses are functional and suitable; and (c) their use will not render the product in which they are used adulterated or misbranded.

Therefore, the Agency is amending § 318.7 of the Federal meat inspection regulations (9 CFR 318.7), under BHA and BHT in the table of approved substances, to add cooked or raw pizza topping and cooked or raw meatballs as products in which BHA and BHT may be added.

List of Subjects in 9 CFR Part 318

Food additives, Meat inspection.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 is revised to read as follows:

Authority: 34 Stat. 1260 as amended, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*), 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*), 76 Stat. 663 (7 U.S.C. 450 *et seq.*)

2. Section 318.7(c)(4) (9 CFR 318.7(c)(4)) is amended by adding the products "Cooked or Raw Pizza Topping and Cooked or Raw Meatballs" to the Chart of products to be placed after "Fresh Sausage Made From Beef or Beef and Pork" under the class of substances entitled "Antioxidants and Oxygen Interceptors," as follows:

§ 318.7 Approval of substances for use in the preparation of products.

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
Antioxidants and oxygen terceptors.	BHA (butylated hydroxyanisole.	.....do.....	Fresh pork, sausage, brown and serve sausages, fresh Italian sausage products, pregrilled beef patties, fresh sausages made from beef or beef and pork, cooked or raw pizza topping and cooked or raw meatballs.	0.01 percent based on fat content—0.02 percent in combination based on fat content.
	BHT (butylated hydroxytoluene).	.....do.....	.....do.....	.....do
*	*	*	*	*

Done at Washington, DC, on August 6, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-18523 Filed 8-12-87; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

10 CFR Part 725

Permits for Access to Restricted Data

AGENCY: Office of Uranium Enrichment, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is announcing its decision to amend the regulation concerning permits for access to uranium isotope separation Restricted Data. The regulation establishes procedures and standards for the issuance of access permits to those private sector persons or groups who require access to Restricted Data for use in their business. Access permits are divided into separate technology categories. Category C–24 pertains to access to the gaseous diffusion and gas centrifuge processes for the separation of uranium isotopes for participating in the construction and operation of additional production facilities utilizing those technologies. The purpose of this rulemaking is to update Category C–24 to take into account events that have occurred since the last amendment in 1979.

Specifically, this rulemaking authorizes access to Category C–24 Restricted Data by persons interested in acquiring centrifuge machines and related equipment and materials for commercial purposes involving uranium enrichment and for purposes other than uranium enrichment. Such machines and equipment have been made surplus to DOE's needs as a result of DOE's cancellation of its Gas Centrifuge Enrichment Plant and advanced Gas Centrifuge Development Program in June 1985.

In addition, this rulemaking recognizes a new category of information known as "government confidential commercial information."

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Philip Sewell, Director, Office of Technology Deployment and Strategic Planning (NE–34), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20545, (301) 353–4610 or Lawrence Leiken, Attorney, Office of General Counsel (GC–31), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6975.

SUPPLEMENTARY INFORMATION: .

I. Introduction

Category C–24 defines the terms and conditions which must be satisfied to obtain uranium isotope separation information. Applicants may apply for two subcategories of permits, A or B. Subcategory A includes technical information in summary form concerning the status and potential of Government funded processes for separation of uranium isotopes. Subcategory B provides for up to full technical disclosure on any technical aspect of the uranium isotope separation process, including equipment and facility design, construction, and operation. To qualify for an access permit under existing regulations, an applicant is required to (1) demonstrate adequate technical, managerial, and financial qualifications, and (2) agree to determine its interest in (subcategory A) or propose to participate in (subcategory B) an effort leading to the construction of additional or operating existing gas centrifuge or gaseous diffusion production facilities.

Regulations pertinent to this category were last amended in 1979. See 44 FR 37938 (June 29, 1979).

The primary purpose of this Rulemaking is to revise Category C–24, subcategory B, to permit access by persons interested in acquiring surplus centrifuge machines for commercial use involving uranium enrichment and for purposes other than uranium enrichment. Section 725.15, Requirements for Approval of Applications, is expanded to include such potential use.

In addition, a further purpose of this Rulemaking is to recognize the need for protection of a category of information, which is not Restricted Data, known as "government confidential commercial information." This information as described by the United States Supreme Court in *Federal Open Market Committee* v. *Merrill*, 443 U.S. 360 (1979) and in subsequent cases is sensitive commercial information generated by the government, the release of which could put the government at a competitive disadvantage. See also *United States* v. *Weber Aircraft Corp.*, 465 U.S. at 799–800 (1984) and *FTC* v. *Grolier, Inc.* 462 U.S. at 26–27 (1983). DOE believes that it may be necessary to provide limited access to this category of sensitive information as a part of its continuing efforts to ensure a sound and competitive industrial base exists to support or operate uranium enrichment facilities. DOE will provide this information to permittees in support of the Administration's privatization objectives. However, this action will not constitute a waiver of the confidentiality of the information or give to permittees the right to release this information to any third party without the prior consent of DOE. For this purpose, revisions are announced in §§ 725.3, 725.22 and 725.23, which include a definition of the term "government confidential commercial information" and provide a basis for limited access by the permittee only.

II. Background

On April 28, 1987, DOE proposed several revisions in the existing access permit program regulations (52 FR 15324). DOE requested written comments on the proposal by June 2, 1987 and provided for a public hearing which was held on May 21, 1987.

In response to the Notice of Proposed Rulemaking, DOE received written comments from one party and testimony from a second party at the public hearing. The scope of these comments has provided DOE with a complete rulemaking record, containing the views of interested parties. DOE has considered these comments carefully in its deliberations and has modified the proposed regulations where appropriate.

In the following sections, DOE describes the revisions to the existing access permit program regulations. In addition, DOE discusses those comments which relate to particular revisions and responds to those comments where appropriate.

III. Revised Accesss Permit Program Regulations

A. Section 725.3—Definitions

Section 725.3 of the revised regulations defines "Government Confidential Commercial Information." Under the proposed definition, the term would mean "sensitive commercial information generated by the government, the release of which could put the government at a disadvantage in providing enrichment services."

One commenter has expressed the concern that too broad a definition would permit the Government to deny access to information (considered by DOE to be "government confidential commercial") which may be deemed by the permittee to be indispensable to its participation in uranium enrichment privatization. The same commenter also suggested that the proposed definition of "government confidential commercial information" be modified to expressly

exclude information defined as "Restricted Data" under the Atomic Energy Act of 1954, as amended.

DOE believes that the concern that it may withhold any information necessary to induce private participation in uranium enrichment is misplaced. In the introductory comments to the proposed regulations, DOE expressly recognized that it may be necessary to provide access to (government confidential commercial) information "as a part of its continuing efforts to ensure a sound and competitive industrial base exists to support or operate uranium enrichment facilities." In both the preamble and the regulations, DOE indicated that it would provide the necessary information to the permittees in support of the Administation's privatization efforts subject only to the limitation that the information may not be further disseminated by the permittee without DOE's permission. (52 FR 15324)

It was never DOE's intention to treat "Restricted Data" as "government confidential commercial information" since the dissemination of "Restricted Data" is already controlled under the Atomic Energy Act, as amended. DOE agrees with the commenter that the definition of "government commercial confidential information" should be modified in the final rule to expressly exclude Restricted Data. Accordingly, DOE has made the appropriate revision in the final rule.

B. Section 725.15 Requirements for approval of applications

Section 725.15 sets forth the requirements for obtaining an access permit and would permit access by persons interested in acquiring surplus centrifuge machines for commercial use involving uranium enrichment and for purposes other than uranium enrichment. The comments did not address this section. DOE has decided to adopt this section as proposed.

C. Section 725.22 Scope of permit

Section 725.22 of the proposal would permit access on a conditional basis to "government confidential commercial information." One comment suggests that the regulation be modified to permit access to such government confidential commercial information as "is necessary to ensure the existence of a sound and competitive industrial base to support or operate uranium enrichment facilities." DOE believes that the insertion of this language would be redundant because it already appears in the preamble to the regulations (52 FR 15324). Accordingly, DOE has decided to adopt this section as proposed.

D. Section 725.23 Terms and conditions of access

Section 725.23 sets forth the condition that the permittee agrees not to disseminate Restricted Data or government confidential commercial information except as may be otherwise authorized by DOE. The comments did not address this section. DOE has decided to adopt this section as proposed.

IV. Procedural Matters

A. Review Executive Order 12291

Executive Order 12291 (46 FR 13193, February 19, 1981), requires an agency to prepare a regulatory impact analysis for any major rule. DOE has determined that this rule does not constitute a "major rule," as defined in the Executive order, because: (1) The revisions in the access program will not directly result in the level of impact necessary to meet the definition of a "major rule" and (2) in keeping with the purpose and intent of the Executive Order, the revisions will not increase the regulatory burdens on American society. The Director of the Office of Management and Budget has reviewed this rule pursuant to section 3 of Executive Order 12291.

B. Review Under the Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, DOE certifies that the rule will not have a significant economic impact on a substantial number of small entities because: (1) The rule will not directly result in the level of impact required to meet the standard set forth in the Regulatory Flexibility Act, (2) to the extent the rule may have any direct impact, such impact will not be adverse to small entities, and (3) the number of small entities that may be affected by the rule is not large enough to meet the standard set forth in the Regulatory Flexibility Act.

C. Paperwork Reduction Act

The change in the regulation does not directly provide for the collection of new information. DOE will submit the collection of any new information requests concerning the rulemaking amendments to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501.1 *et seq.*, and the procedures implementing that Act, 5 CFR 1320.1 *et seq.*

D. National Environmental Policy Act

The Department of Energy has determined that this rule does not involve alteration of existing facilities, and clearly will not significantly affect the quality of the human environment. Further, this rulemaking is within a category of actions specifically excluded from preparation of either an Environmental Assessment or an Environmental Impact Statement by DOE's Guidelines for Compliance with the National Environmental Policy Act. Since the rulemaking is not a major Federal action significantly affecting the quality of the human environment and is within a categorical exclusion provided by DOE's NEPA Guidelines, neither an Environmental Assessment nor an Environmental Impact Statement is required.

List of Subjects in 10 CFR Part 725

Uranium.

For reasons set forth in the preamble, Part 725 of Chapter III of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC on August 7, 1987.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

1. The authority citation for Part 725 is revised to read as follows:

Authority: Sec. 161 of the Atomic Energy Act, as amended, 68 Stat. 943, 42 U.S.C. 2201.

2. Section 725.3 is amended by adding a new paragraph (i) to read as follows:

§ 725.3 Definitions.

* * * * *

(i) "Government Confidential Commercial Information" means sensitive commercial information not including Restricted Data, generated by the government, the release of which could put the government at a competitive disadvantage in providing enrichment services.

§ 725.15 Requirements for approval of applications.

3. Section 725.15 is amended by revising paragraph (b)(3) to read as follows:

* * * * *

(b) * * *

(3) An application for an access permit authorizing access to Restricted Data in category C–24, isotope separation—subcategory A or B—will be approved only if the application demonstrates also that the applicant:

(i) Possesses technical, managerial and financial qualifications demonstrating that the applicant is

potentially capable of undertaking or participating significantly in the construction and/or operation of production or manufacturing facilities and offers reasonable assurance of adequacy of resources to carry on, alone or with others, uranium enrichment on a production basis or the large-scale manufacture or assembly of precision equipment systems, or is potentially capable of utilizing centrifuge machines in its business for uranium enrichment or for purposes other than uranium enrichment; and is not subject to foreign ownership, control, or influence; and

(A) For subcategory A, desires to determine its interest in participating significantly in a substantial effort to develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment.

(B) For subcategory B, proposes to *(1)* participate significantly in, or is directly participating significantly in, a substantial effort to evaluate alternative processes, develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment, or *(2)* utilize centrifuge machines and related equipment in its business for uranium enrichment or for purposes other than uranium enrichment, or

(ii) Is furnishing to a permittee having access to Category C–24 under the paragraph (b)(3)(i) of this section substantial scientific, engineering, or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to Category C–24.

* * * * *

4. Section 725.22 is amended by adding a new paragraph (c) to read as follows:

§ 725.22 Scope of permit.

* * * * *

(c) In addition, access permits may authorize access, subject to the terms and conditions of the access permit, to such government confidential commercial information as is included within the particular category or categories specified in the permit.

5. Section 725.23 is amended by revising paragraph (d)(9) as follows:

§ 725.23 Terms and conditions of access.

* * * * *

(d) * * *

(9) Except as may be otherwise authorized by DOE, the permittee agrees not to disseminate to persons not granted access by DOE, restricted data or government confidential commercial information made available to the permittee by DOE or restricted data developed by the permittee, its employees, or others engaged by the permittee in the course of the permittee's work under the access permit or as a result of data or information made available by DOE.

* * * * *

[FR Doc. 87–18479 Filed 8–12–87; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 87–858]

Membership in Federal Home Loan Banks

Date: August 6, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting final amendments to its Federal Home Loan Bank System Regulations to provide a method for determining appropriate Federal Home Loan Bank ("Bank") district membership for all institutions eligible to become Bank members. Under the amendments an institution can be a member only in the Bank district in which it maintains its principal office, normally as shown in its charter, unless the Principal Supervisory Agent determines that membership is inconsistent with the actual location of control over the institution's records or operations. The amendments eliminate an option that allows an institution to become a member of a Bank outside the district in which its home office is located by naming a state in which it does substantial business as its principal place of business in accordance with the provisions of 28 U.S.C. 1332(c). Institutions that have taken advantage of the current option could choose to be grandfathered, but would not be immune from future application of a procedure for mandatory transfer of membership established in the amendments.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Jonathan Curtis, Program Analysis Development Division, Office of the District Banks, at (202) 377–6709; or Richard L. Little, Associate General Counsel, Corporate and Securities Division, Office of General Counsel, at (202) 377–6447, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

A. Description of the Proposal

On January 29, 1987, the Board proposed these amendments primarily for the purpose of fostering more effective supervision of thrift organizations with deposit-taking facilities in more than one Bank district. Board Res. No. 87–111, 52 FR 3450 (February 4, 1987). Despite certain concerns raised in the public comments, the Board, with two noted exceptions, has decided to adopt the amendments substantially in the form proposed for the reasons previously expressed.

Under these amendments, an institution's "principal place of business" for determination of the Bank in which membership would be appropriate pursuant to section 4(b) of the Federal Home Loan Bank Act ("Act") (12 U.S.C. 1424(b)) will, as a general rule, be the state in which the institution's "principal office," as defined in 12 CFR 561.7, is located. The general rule would prevail unless the Principal Supervisory Agent ("PSA") makes a contrary designation based on the existence of any one of four factors indicating that control over the institution's records or operations is lodged elsewhere. Where a principal place of business so designated is a state in another Bank district, the PSA can send the institution a written notification of intent to order transfer of membership. If the institution fails within 90 days of the date of the notice to correct the conditions supporting the designation or to explain why the designation is unjustified, the PSA can order transfer of membership to the appropriate Bank district upon reaching agreement with the PSA of the receiving Bank on a method of orderly transfer. If the PSAs involved are unable to agree, the Board would set the terms of transfer.

In the proposal, an institution that had received Board approval under section 4(b) of the Act to be a member in a Bank district adjoining the district in which its principal place of business was located would have been completely exempt from the mandatory transfer procedures. The Board has decided to eliminate this exemption and to extend only the limited grandfather privileges, available to all holders of non-conforming memberships, to such institutions. Also, the Board has determined to add a new paragraph (g) to the final version of § 523.3–2 of the Regulations in order to make it clear that institutions involved in supervisory cases would not be subject to the transfer procedures to the extent that any approvals granted in connection with these supervisory cases

are inconsistent with the procedures. Aside from these revisions the text of proposed § 523.3–2 has not been changed.

B. Discussion of the Comments

The Board received five public comments in response to the proposal. Two were from the Banks; the remainder came from an industry trade association, an insured institution and a private law firm. The insured institution supported the amendments and the Board's rationale without further comment. Although they were generally supportive of the supervisory objectives of the proposal, the remaining commenters had reservations about various aspects of the amendments.

Both commenting Banks drew a distinction between the financial and supervisory sides of their operations. From the financial standpoint neither Bank felt that the proposal gave sufficient consideration to the impact that the loss of a member might cause. Both the equity position and earnings of a Bank might be significantly eroded through redemption of capital stock and retirement of advances if a sizeable member institution were forced to transfer districts. To reduce these risks, one of the Banks suggested dividing the supervisory and financial responsibilities between different Banks in accordance with the location of control or records and fiscal requirements of a given member.

In the Board's view, splitting the banking and regulatory functions for an institution between Banks would be administratively unfeasible and would tend to undermine the goal of having the site "where control of an institution is exercised and its records maintained coincide with its principal place of business for Bank membership purposes." 52 FR 3451. The Board believes that, given the supervisory objectives of the amendments and the relatively small number of institutions that would be affected by the transfer procedure, the economic impact on a Bank should not determine whether a transfer is ultimately justified.

Under the proposal, institutions that had received Board approval pursuant to section 4(b) of the Act to be members in Bank districts adjoining the districts in which their principal offices were located would have been entirely exempt from the mandatory transfer procedures, but other institutions maintaining memberships not in conformity with the new rules would have been entitled only to a limited form of grandfathering. The latter group would have been able to keep non-conforming memberships so long as the PSA, in reliance upon the factors relating to maintenance of records and control of operations, did not make a designation requiring transfer to another district. With respect to the former group, the second commenting Bank suggested elimination of the proposed exemption from the transfer procedures on grounds that acquisition of such institutions by out-of-state entities could lead to the same types of supervisory problems presented by other multi-state organizations covered by the proposal. Although Board-approved, adjoining district membership is specifically authorized by statute, upon consideration the Board concurs with the observation of the second commenting Bank. No useful supervisory purpose would be served by granting a blanket exemption to institutions that have acquired membership in adjoining districts by virtue of the statutory authorization. Under the final amendments, therefore, all institutions with memberships not conforming to the new rules will be subject to mandatory transfer of districts upon the appropriate findings.

With respect to the limited grandfathering for non-conforming memberships, the industry trade association felt that the proposal was defective because "once an institution is grandfathered, it should remain grandfathered." While the value of certainty of membership in a particular Bank district can be appreciated, the Board believes that unrestricted grandfathering of non-conforming memberships is contrary to the policies underlying the amendments. Operations that are deemed deficient from a supervisory standpoint should not be shielded by a grandfathering device intended primarily to serve as a convenience. Therefore, the Board has decided to retain only limited grandfathering for all non-conforming memberships.

Both the industry trade association and the private law firm felt that the proposed amendments might disrupt the process of disposing of failing institutions. The trade association was especailly concerned that the rules "could prohibit membership in a [B]ank district in which a thrift conducts the bulk of its business activity—conceivably the site of several newly acquired unhealthy thrifts. . . ." Thus, according to this view, the amendments "would tend to discourage healthy thrifts from purchasing unhealthy thrifts outside their . . . Bank districts."

For its part, the private law firm contended that adoption of the amendments could upset agreements undertaken in connection with supervisory acquisitions made pursuant to temporary section 408(m) of the National Housing Act (12 U.S.C. 1730a(m)). On this point the chief concern was that the amendments "would permit a PSA to override a provision of such an acquisition agreement pertaining to the location of the Bank in which the resulting institution would be a member." In the view of this commenter, "so long as the books, records, account documentation and bank officers necessary for efficient examination and supervision are available at a single location . . .," designations of Bank districts made in the context of executed transactions under section 408(m) should be exempt from application of the amendments.

While the likelihood that the amendments might have the effect of discouraging supervisory acquisitions or undoing previously approved arrangements made in the context of such transactions appears to be extremely remote, the Board is particularly sensitive to any regulatory changes that could be perceived as impeding the disposition of failing institutions under circumstances otherwise acceptable to the Board. Therefore, the final amendments incorporate a new paragraph (g) that would exempt from the transfer procedures any institution involved in a "supervisory case", as defined in 12 CFR 563.43(d), if any approvals granted in connection with the supervisory case would be inconsistent with the procedures.

Finally, the comment from the private law firm urged adoption of a notice and transfer procedure somewhat different from the one proposed in paragraph (d) of § 523.3–2. Under the recommended approach, the PSA would first notify an institution that its Bank district designation was subject to review. The institution would then have 90 days to "submit written reasons why redesignation would not be appropriate." At the close of the period, the PSA would render a decision "based upon a weighing of the factors contained in the Proposed Rule and those submitted by the institution." Following an adverse decision by the PSA, the institution would have the opportunity to appeal to the Board. According to the writer, these procedures were designed to give "greater weight . . . [to] the preferences and reasons that a grandfathered institution may have in making its case that it should not be transferred to a different District Bank."

The chief differences between the recommended procedures and the Board's proposed structure are the

opportunities for the target institution to introduce considerations other than the four factors specified in the proposal into the decisional process and to appeal a redesignation to the Board. In the Board's view, neither departure is warranted.

Although the Board can understand that an institution might prefer membership in a given Bank for a number of reasons not set forth in the proposal, the rationale for the recommended procedures loses sight of the supervisory objectives of the amendments and the relative ease by which mandatory transfer can be avoided. In the Board's view, a policy holding that a principal place of business serve as the location which control of an institution is exercised and its records are maintained is not particularly onerous. On the other hand, for the Board to carry out its supervisory responsibilities effectively, an institution that is held out as a discrete corporate entity should be regulatorily accountable for the conduct of its affairs at a single, readily ascertainable location. Since most of the Board's supervisory actions are initiated under delegated authority at the Bank level, the Board believes that for the sake of administrative convenience and supervisory effectiveness the location of choice for examining and supervising institutions on an individual basis should be their principal places of business as designated for Bank membership purposes. Considerations for maintaining membership in a given Bank beyond the four factors listed in the proposal and retained in the final amendments would not comport with the Board's objectives. Since the administrative action contemplated by these amendments involves transfer of membership for supervisory purposes, but not loss of membership, and since the factors determining the propriety of a transfer are to a great extent objectively verifiable, the Board is also of the opinion that an opportunity for an institution to appeal a redesignation to the Board is not necessary. Therefore, the procedures for notice and transfer of membership contained in the proposal have been retained without revision in the final amendments.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are discussed above in **SUPPLEMENTARY INFORMATION.**

2. *Issues raised by comments and agency assessment and response.* These elements are discussed above in **SUPPLEMENTARY INFORMATION.**

3. *Significant alternatives minimizing small-entity impact and agency response.* The Small Business Administration defines a small financial institution as "a commercial bank or savings and loan association, the assets of which, for the preceding fiscal year, do not exceed $100 million." 13 CFR 121.13(a). Therefore, the small entities to which the final rule applies are the 1,651 insured institutions which had assets totaling $100 million or less as of December 31, 1986, that are affiliated with organizations maintaining depository offices in more than one Bank district. There are no alternatives, other than commencement of individual enforcement actions, that would achieve the Board's objectives.

List of Subjects in 12 CFR Part 523

Federal home loan banks, Flood insurance, Mortgages, Reporting and recordkeeping requirements.

Accordingly, the Federal Home loan Bank Board hereby amends Part 523, Subchapter B, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

1. The authority citation for Part 523 continues to read as follows:

Authority: Sec. 5, 47 Stat. 727, as amended (12 U.S.C. 1425); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 503, 88 Stat. 1521, as amended (15 U.S.C. 1691, 1691a); sec. 202(b), 87 Stat. 982, as amended (42 U.S.C. 4106(b)); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp., 1943–48 Comp., p.1071.

2. Section § 523.3–2 is amended by revising the heading of the section; by revising paragraph (b); and by adding new paragraphs (c) through (g) to read as follows:

§ 523.3–2 Membership at principal place of business, designation, transfer of membership.

* * * * *

(b) *Principal place of business.* Except as designated in accordance with paragraph (c) of this section, the principal place of business of an institution is the state in which the institution maintains its "principal office," as defined in § 561.7 of this chapter.

(c) *Designation by Principal Supervisory Agent.* The rule contained in paragraph (b) of this section notwithstanding, the "Principal Supervisory Agent," as defined in § 541.18 of this chapter, at a Bank in which an institution is a member, has discretion to designate a different principal place of business if—

(1) Any books or records deemed necessary by the Principal Supervisory Agent for proper examination and supervision;

(2) Regular places of employment of a substantial number of officers with policy-making functions of their equivalents;

(3) Principal residences (other than those located in Metropolitan Statistical Areas) of a substantial number of officers with policy-making functions or their equivalents; or

(4) A substantial number of meetings of the board of directors, constituent committees, or their equivalents

are maintained, held, or located in a state other than the state in which the institution maintains its principal office.

(d) *Transfer of membership by Principal Supervisory Agent.* If, as a result of a designation made pursuant to paragraph (c) of this section, an institution's principal place of business is deemed to be a state outside the Bank district in which the institution is a member, the Principal Supervisory Agent responsible for the designation shall transmit to the institution a written notice of intent to order transfer of membership. The notice shall include the designated principal place of business, the basis for the designation, and the Bank district to which membership will be transferred. If, in the judgment of the Principal Supervisory Agent, within 90 days of the date of the notice the institution has not acted in good faith to eliminate the basis for the designation or adequately explained why the designation was unjustified, the Principal Supervisory Agent has the discretion to order transfer of the institution's membership as set forth in the notice. No order shall take effect until the Principal Supervisory Agents of the Bank districts involved reach agreement on a method of an orderly transfer. In the event that Principal Supervisory Agents fail to agree, the Board shall determine the conditions under which the transfer shall take place.

(e) *Non-conforming memberships.* An institution that is not a member in a Bank district in which its principal office

is located on October 13, 1987, may choose to remain a member in its district but, in the event of a designation made pursuant to paragraph (c) of this section, could be subject to transfer to another district in the manner prescribed by paragraph (d) of this section.

(f) *Effect of transfer.* A transfer of membership authorized by this section shall be effective for all purposes including directoral representation under section 7(c) of the Act and § 522.23 of this subchapter, but shall not be treated as a withdrawal or removal from membership within the scope of seciton 6 of the Act or § 523.30 and § 523.31 of this subchapter.

(g) *Supervisory Case Exception.* The procedures established in paragraphs (c) and (d) of this section shall not apply to any institution involved in a supervisory case to the extent any approvals granted in connection therewith would be inconsistent with such procedures. For purposes of this paragraph, the term "supervisory case" shall have the same meaning as assigned in paragraph (d) of § 563.43 of this Chapter.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-18474 Filed 8-12-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-222-AD; Amdt. 39-5705]

Airworthiness Directives; British Aerospace Model BAe-146 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace Model BAe-146 series airplanes, which requires periodic inspection and replacement, if necessary, of the flap system torque limiters. This proposal is prompted by reports of loss of primary drive of the flap system torque limiters due to excessive sprocket wear. Failure of the flap drive system could result in reduced controllability of the airplane.

EFFECTIVE DATE: September 14, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires repetitive inspections of the torque limiter drive sprocket splines on certain BAe Model 146 series airplanes, and replacement, if necessary, was published in the **Federal Register** on April 22, 1987 (52 FR 13249).

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

The first commenter indicated concurrence with the NPRM.

The other commenter, the manufacturer, noted that the NPRM proposed to require inspections in "accordance with BAe Alert Service Bulletin 27-A54, Revision 1," which describes certain repetitive inspections at intervals of 300 landings; however, the actual wording in paragraph B.2. of the NPRM proposed those repetitive inspections at intervals of 200 landings. The commenter questioned FAA's basis for reducing the interval and suggested that the proposal be revised so that the repetitive inspection interval would be the same as that recommended in the service bulletin. The FAA agrees that the intent of the proposal was for repetitive inspection requirements to be in accordance with the recommendations of the service bulletin. Accordingly, the final rule has been revised to reflect a repetitive inspection interval of 300 landings. The FAA has determined that this change will have no significant effect on the safety of flight, and will impose no additional economic burden on affected operators.

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

It is estimated that 30 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,400.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($480). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-146 series airplanes listed in British Aerospace BAe-146 Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished:

To prevent the loss of primary or secondary drive of the flap system torque limiter output, accomplish the following:

A. Inspect torque limiter drive sprocket splines for excessive backlash and replace, if necessary, in accordance with BAe Alert Service Bulletin 27-A54, Revision 1, dated April 22, 1986.

B. Repeat the following inspections described in BAe Service Bulletin 27-A54, Revision 1, dated April 22, 1986:

1. Paragraph 2A: At intervals not exceeding 600 landings.

2. Paragraph 2B: At intervals not exceeding 300 landings.

C. Modification of the flap drive system in accordance with BAe Modification Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, constitutes terminating action for the repetitive inspection requirements of paragraph B., above.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 14, 1987.

Issued in Seattle, Washington, on July 31, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-18424 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25342; Amdt. No. 1354]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2 The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on August 7, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

... Effective October 22, 1987

Benson, MN—Benson Muni, NDB RWY 14, Amdt. 5
Eveleth, MN—Eveleth-Virginia Muni, RNAV RWY 27, Orig.
Martinsburg, WV—Eastern WV Regional/Airport Shepherd Field, VOR-A Amdt. 7
Martinsburg, WV—Eastern WV Regional/Airport Shepherd Field, ILS RWY 26, Amdt. 5

... Effective September 24, 1987

Chico, CA—Chico Muni, VOR RWY 13L, Amdt. 7
Pueblo, CO—Pueblo Memorial, NDB RWY 26R, Amdt. 16
Pueblo, CO—Pueblo Memorial, ILS RWY 26R, Amdt. 12
Macon, GA—Herbert Smart Downtown, VOR-A, Amdt. 3
Macon, GA—Herbert Smart Downtown, LOC RWY 9, Amdt. 3
New Orleans, LA—New Orleans Intl/Moisant Fld, LOC BC RWY 19, Amdt. 10
New Orleans, LA—New Orleans Intl/Moisant Fld, ILS RWY 28, Admt. 2, CANCELLED
New Orleans, LA—New Orleans Intl/Moisant Fld, ILS RWY 28, Orig.
Caldwell, NJ—Essex County, LOC RWY 22, Orig.
London OH—Madison County, NDB RWY 8, Amdt. 4
Annville, PA—Millard, VOR/DME-A, Amdt. 2
Carlisle, PA—Carlisle, VOR/DME-A, Orig.
Chambersburg, PA—Chambersburg Muni, VOR/DME-A, Amdt. 2
Chambersburg, PA—Chambersburg Muni, VOR-B, Amdt. 1
Harrisburg, PA—Capital City, ILS RWY 8, Amdt. 8
Lancaster, PA—Lancaster, VOR/DME RWY 26, Amdt. 5
Lancaster, PA—Lancaster, VOR RWY 31, Amdt. 13
Lancaster, PA—Lancaster, VOR/DME RWY 31, Amdt. 1
Lancaster, PA—Lancaster, ILS RWY 8, Amdt. 11
Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, ILS RWY 13, Amdt. 9
Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, ILS RWY 31, Amdt. 3
Mount Joy/Marietta, PA—Donegal Springs Airpark, VOR RWY 27, Amdt. 1
Reading PA—Reading Muni, Gen Carl A. Spaatz Field, RNAV RWY 13, Amdt. 7
York, PA—York, NDB RWY 16, Orig.
York, PA—York, NDB-A, Amdt. 8, CANCELLED
MOAB, UT—Canyonlands Field, VOR-A, Amdt. 9

... Effective August 5, 1987

Ontario, CA—Ontario Intl, ILS RWY 26L, Amdt. 5

... Effective July 30, 1987

Burlington, IA—Burlington Muni, ILS RWY 36, Amdt. 8
Hyannis, MA—Barnstable Muni-Boardman/Polando Field, VOR RWY 6, Amdt. 2
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/LOC BC RWY 11L, Amdt. 8

[FR Doc. 87-18425 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239 and 240

[Release Nos. 33-6714A; 1C-15752A]

Elimination of Certain Pricing Amendments and Revision of Prospectus Filing Procedures; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rules; correction.

SUMMARY: This document corrects a new rule and related amendments published June 5, 1987 (52 FR 21252) that simplify the filing requirements applicable to a registration statement at the time of effectiveness. The document is needed to correct typographical errors and for clarification.

FOR FURTHER INFORMATION CONTACT: Abigail Arms, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 87-12707, Elimination of Certain Pricing Amendments and Revision of Prospectus Filing Procedures, published in the **Federal Register** on June 5, 1987 (52 FR 21252).

1. Footnote 29 on page 21254 is revised by adding "certain" immediately prior to "bank of savings and loan holding company formations."

2. The second sentence in footnote 34 on page 21254 which reads in part ". . . and increase in amount would require a new registration statement . . ." is revised to read as follows: ". . . any increase in amount would require a new registration statement. . . ."

3. The first full sentence of the third column on page 21254 which reads in part ". . . use of the Rule does not eliminate the need to file a post-effective amendment if the financial statements are required to be updated at the time of effectiveness . . ." is revised to read as follows: ". . . use of the Rule does not eliminate the need to file a pre-effective amendment if the financial statements are required to be updated at the time of effectiveness. . . ."

4. The illustration ending the second sentence in footnote 48 on page 21255 which reads ". . . as part of a cost-effective amendment of Form 8-K" is revised to read as follows: ". . . as part of a post-effective amendment of Form 8-K".

§ 229.501 [Corrected]

5. In § 229.501 paragraph (c)(8) (page 21260), the end of the fourth sentence in the required statement which reads in part ". . . prior to registration or qualification under the securities laws of any State" is revised to read as follows: ". . . prior to registration or qualification under the securities laws of any such State."

§ 229.502 [Corrected]

6. In § 229.502 paragraph (d)(2) (page 21260), the second sentence which reads in part ". . . the prospectus is filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . the prospectus filed pursuant to Rule 424(b) . . ."

§ 229.512 [Corrected]

7. In § 229.512 paragraph (j) (page 21260), the main clause of undertaking (1) which reads in part ". . . the information omitted from the form of prospectus filed as part of a registration statement in reliance upon Rule 430A and contained in the form of prospectus filed by the registrant . . . shall be deemed to be part of the registration statement . . ." is revised to read as

follows: ". . . the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant . . . shall be deemed to be part of this registration statement. . . ."

§ 230.481 [Corrected]

8. In § 230.481 paragraph (b)(2) (page 21262), the end of the fourth sentence in the required statement which reads in part ". . . prior registration or qualification under the securities laws of any State" is revised to read as follows: ". . . prior to registration or qualification under the securities laws of any such State."

§ 239.13 [Corrected]

9. In § 239.13, Form S-3, paragraph (b) of Item 11 (page 21262), the exception language, which reads in part ". . . where no prospectus is required to be filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . where no prospectus was required to be filed pursuant to Rule 424(b). . . ."

§ 239.25 [Corrected]

10. In § 239.25, Form S-4, paragraph (b) of Item 10 (page 21262), the exception language, which reads in part ". . . where no prospectus is required to be filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . where no prospectus was required to be filed pursuant to Rule 424(b). . . ."

§ 239.33 [Corrected]

11. In § 239.33, Form F-3, paragraph (b)(1) of Item 11 (page 21263), the exception language, which reads in part ". . . where no prospectus is required to be filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . where no prospectus was required to be filed pursuant to Rule 424(b). . . ."

§ 239.34 [Corrected]

12. In § 239.34, Form F-4, paragraph (c) of Item 10 (page 21263), the exception language, which reads in part ". . . where no prospectus is required to be filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . where no prospectus was required to be filed pursuant to Rule 424(b). . . ."

§ 240.14a-101 [Corrected]

13. In § 240.14a-101, Item 14(b)(1)(ii) (page 21263), the exception language, which reads in part ". . . where no prospectus is required to be filed pursuant to Rule 424(b) . . ." is revised to read as follows: ". . . where no prospectus was required to be filed pursuant to Rule 424(b). . . ."

Jonathan G. Katz,

Secretary.

August 7, 1987.

[FR Doc. 87-18520 Filed 8-12-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 157, 201, 270 and 271

[Docket Nos. RM83-72-010 and RM82-16-010; Order No. 391-B]

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978, First Sales by Affiliates

Issued August 10, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on remand.

SUMMARY: The Federal Energy Regulatory Commission interprets the Natural Gas Policy Act of 1978 (NGPA) to provide that pipeline-produced gas formerly priced at cost-of-service rates qualifies for the same rates under NGPA section 104 as gas produced by independent or affiliate producers. This reaffirms the Commission's price determinations in Order No. 391, 49 FR 33849 (Aug. 27, 1984), and Order No. 391-A, 50 FR 14378 (Apr. 10, 1985). In Order No. 391-A the Commission based its decision in part on the belief that *Public Service Commission of the State of New York v. Mid-Louisiana Gas Co. et al.*, 463 U.S. 319 (1982), required parity of pricing. In *Phillips Petroleum Co. v. FERC*, 792 F.2d 1165 (D.C. Cir. 1986), the United States Court of Appeals for the Tenth Circuit remanded Order Nos. 391 and 391-A, holding that the Commission's interpretation of the statute was permissible, but was not mandated by the *Mid-Louisiana decision.*

EFFECTIVE DATE: August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8696.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Order on Remand

I. Introduction

On remand from the United States Court of Appeals for the District of Columbia Circuit, the Commission must reconsider the proper interpretation of section 104 of the Natural Gas Policy Act of 1978 (NGPA) as it applies to the pricing of production of natural gas from certain wells owned by interstate pipelines.[1] This order reaffirms the Commission's conclusion that pipeline production previously priced on a cost-of-service basis is now subject to the same ceiling price as gas sold by independent producers.

II. Background

On August 22, 1984, the Commission issued Order No. 391,[2] a final rule implementing *Public Service Commission of the State of New York v. Mid-Louisiana Gas Co. et al.*, 463 U.S. 319 (1983) (*Mid-Louisiana*), in which the Supreme Court held 5 to 4 that a pipeline's production of its own gas was entitled to be treated as a first sale pursuant to section 2(21) of the NGPA and that the pricing provisions of Title I of the NGPA were therefore applicable to that production.[2a] In Order No. 391 the Commission amended its regulations to include within the definition of first sale the intracompany transfer of gas from a pipeline's production division to its transmission division and defined the transfer as taking place at the wellhead. The Commission also determined that pipeline production that was previously (prior to enactment of the NGPA) priced on a cost-of-service basis was entitled to be priced at the applicable NGPA rate for comparable categories of gas produced and sold by independent producers.[3] This ruling was based on

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[1] *Phillips Petroleum Co. v. FERC*, 792 F.2d 1165 (D.C. Cir. 1986) (*Phillips*).

[2] 49 FR 33849 (Aug. 27, 1984); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,588.

[2a] In *Mid-Louisiana* the Supreme Court affirmed the decision of the Fifth Circuit (Mid-Louisiana Gas Company v. FERC, 664 F.2d 530 (5th Cir. 1981)) that a pipeline's production of its own gas is a first sale under the NGPA and affirmed that court in vacating Commission Order Nos. 58 and 98, which were based on the theory that an intracorporate transfer of certain pipeline production did not constitute a first sale and was therefore exclusively subject to the Commission's Natural Gas Act (NGA) jurisdiction. *Mid-Louisiana* vacated and remanded the Firth Circuit's decision that the first sale of pipeline production occurs at the wellhead, stating that Congress intended to give the Commission discretion in deciding whether the first sale should be considered as taking place at the wellhead or at a downstream transfer point. 463 U.S. at 343.

[3] The Commission's policy prior to *Mid-Louisiana* (under Order Nos. 58 and 98) had been to permit most pipeline production to be priced at applicable NGPA producer rates, subject to the affiliated

Continued

Mid-Louisiana, which the Commission interpreted as requiring parity of pricing for gas produced by pipelines and independent producers.

This determination was challenged on rehearing by Phillips Petroleum Company and Phillips Oil Company (jointly Phillips). Phillips argued that pipeline production priced on a cost-of-service basis has a different maximum lawful price under NGPA section 104 than gas of the same type and vintage produced and sold by independent producers. Section 104(b)(1) provides that the maximum lawful price is the higher of the just and reasonable rate in effect on April 20, 1977, as adjusted for inflation pursuant to section 101(a) of the NGPA, or any just and reasonable rate established by the Commission after April 20, 1977, and before the date of enactment of the NGPA on November 9, 1978:

(1) General Rule.—The maximum lawful price under this section for any month shall be the higher of—

(A)(i) The just and reasonable rate, per million Btu's, established by the Commission which was (or would have been) applicable to the first sale of such natural gas on April 20, 1977, in the case of April 1977; and

(ii) In the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month, or

(B) Any just and reasonable rate which was established by the Commission after April 20, 1977, and before the date of the enactment of this Act and which is applicable to such natural gas.

For producers and pipeline production based on producer ceiling prices (all pipeline production except old wells on old leases) the rate in effect on April 20, 1977, was an applicable area or national rate previously established by the Commission's predecessor, the Federal Power Commission (FPC). However, Phillips argued that as to pipeline production priced on a cost-of-service basis as of April 20, 1977, a separate and different just and reasonable rate was established, namely the cost-of-service rate converted to a Btu basis. Phillips argued that the applicable rate for such production under section 104 is the April 20, 1977 cost-of-service rate per MMBtu adjusted for inflation rather than the applicable producer rate. The Commission denied rehearing in Order No. 391–A,[4] rejecting Phillips' arguments and adhering to its conclusion that *Mid-Louisiana* required parity of pricing for gas produced by pipelines and independent producers.

The Commission's orders were appealed to the United States Court of Appeals for the District of Columbia Circuit, which held that the Commission's conclusion that *Mid-Louisiana* required parity of pricing was erroneous and remanded the case for reconsideration of the proper interpretation of section 104.[5] *Phillips Petroleum Co. v. FERC*, 792 F.2d 1165 (D.C. Cir. 1986) (*Phillips*). The court held that *Mid-Louisiana* did not mandate the interpretation sought by Phillips, but that it also did not mandate the Commission's interpretation. According to the court in *Phillips*, section 104 of the NGPA could be interpreted to permit parity of pricing for independent producer and pipeline production, but the Commission would have to offer a rationale for that interpretation and not base such a conclusion on its erroneous belief that *Mid-Louisiana* mandated such a result.

On October 26, 1986, Midwest Energy, Inc. (Midwest), which had successfully intervened as a party in the *Phillips* appeal, filed a motion requesting the Commission to issue an order on remand consistent with the position taken by Phillips that the ceiling price under NGPA section 104 for pipeline cost-of-service production is the cost-of-service price as of April 20, 1977, as adjusted for inflation, and that the section 104 producer price ceilings are inapplicable to pipeline cost-of-service production. KN Energy, Inc. answered in opposition, urging the Commission to reaffirm its prior determination that all pipeline production is entitled to applicable NGPA producer ceiling prices.

III. Discussion

The Commission must determine on remand of the *Phillips* case whether section 104(b)(1) of the NGPA incorporated the cost-of-service rate for each particular pipeline's production from its old wells on old leases or applied to such pipeline production the just and reasonable rates established by the Commission for gas produced by independent producers.[6] To reach its decision, the Commission has considered the language of the statute, the statutory and judicial pronouncements on the issue of parity, other Commission regulations and policies, and the possible difficulties of accurately determining the applicable cost-of-service rate for old pipeline production.

As previously noted, section 104 provides that the applicable ceiling price shall be the just and reasonable rate established by the Commission which was (or would have been) in effect on April 20, 1977, adjusted for inflation (or any other higher rate approved by the FPC prior to enactment of the NGPA). As recognized by the court in *Phillips*, this deceptively simple statutory provision admits of a troublesome ambiguity: there were two different sources of gas with separate rate structures.[7] A preliminary question arises as to whether the pre-NGPA cost-of-service pricing of pipeline production resulted in the establishment by the FPC of just and reasonable rates for such production.[8] If so, then there were, in effect, two just and reasonable rates. If not, the inquiry is at an end, and the section 104 producer rates would apply by default.

The Commission has considered the argument that cost-of-service pricing of pipeline production by the FPC established just and reasonable rates within the meaning of section 104. Even though a pipeline's production costs were normally measured in relation to total pipeline sales, and no unit rate per Mcf or per MMBtu of gas at the wellhead was actually calculated in a rate proceeding to establish the lawful rates for gas sold to the pipeline's customers, a just and reasonable wellhead rate was nevertheless implicit in the determination of the pipeline's overall rates, and the practical result of this process was effective price regulation of the pipeline's production at the wellhead.

The Commission, however, has concluded that the just and reasonable rates applicable on April 20, 1977, and

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entities test prescribed in section 601(b)(1)(E) of the NGPA. However, with respect to gas produced from "old wells" (drilled on or before January 1, 1973) on "old leases" (acquired on or before October 7, 1969), the Commission proposed to continue its pre-NGPA policy of pricing such gas on a cost-of-service basis.

[4] 50 FR 14374 (April 12, 1985); 31 FERC ¶ 61,036.

[5] The issue in this case involves establishing the ceiling price for pipeline cost-of-service production only under section 104. It is clear that a pipeline producer is entitled to the benefit of NGPA ceiling prices under other sections of Title I in the event the pipeline's wells qualify under those sections as, for example, stripper wells under section 108. *Mid-Louisiana*, 463 U.S. at 342.

[6] In Order No. 451 the Commission established a uniform alternative ceiling price for old gas under the authority of NGPA section 104(b)(2). That price is equal to the section 104 ceiling price for post-1974 old gas. The Commission determined that all old gas (including pre-NGPA pipeline production priced on a cost-of-service basis) would be eligible for the alternative ceiling price regardless of what the otherwise applicable ceiling price might be under section 104(b)(1). Therefore the resolution of the issue remanded by *Phillips* will apply only to pipeline gas produced subsequent to enactment of the NGPA until such gas has been repriced under Order No. 451 after July 18, 1986, the effective date of that order.

[7] *Phillips*, at 1166.

[8] *Id.* at 1171.

incorporated by reference in section 104(b)(1), were the national rates set for independent-producer gas. Section 104 of the Act sets the maximum lawful price at "the just and reasonable rate . . . established by the Commission" on April 20, 1977. The FPC, however, only "established" the national and regional rates for producer gas; the Commission set only the downstream rates charged to distributors for pipeline gas—not the wellhead rates—and in so doing, merely evaluated the "prudence" of pipelines' gas-production costs at the wellhead. From the inception of regulation under the Natural Gas Act in 1938, the costs incurred by pipelines in producing their own gas had been included in the cost-of-service upon which their rates to their customers were based. *Canadian River Gas Co. et al.*, 3 F.P.C. 32 (1942), *aff'd. sub. nom., Colorado Interstate Gas Co. v. FPC*, 324 U.S. 581 (1945). The cost-of-service "price" allowed for the pipeline's own gas production was only one cost factor among other cost factors underlying the pipeline's rates. All of the pipeline's prudent production costs were either capitalized or expensed regardless of the success or failure of their efforts. A pipeline's production costs were normally measured in relation to total pipeline sales, and no unit rate per Mcf or per MMBtu of production at the wellhead was ever calculated. When making a determination on the matter in a pipeline rate case under section 4 of the NGA, the Commission simply decided whether the pipeline's exploration, development, production, and related costs were prudently incurred.

This form of ratemaking did not take the form of determining a "just and reasonable" price for each unit of gas produced. Thus the Commission never established a just and reasonable rate for pipeline-produced old gas. The statutory language upon which Phillips relies in section 104, referring to rates in effect on April 20, 1977, cannot be read to refer to wellhead rates implicit in a pipeline's city-gate rates established in a cost-of-service basis, since such wellhead rates were never established. Because there was no "just and reasonable" rate "established by the Commission" that was "applicable" to pipeline production from old wells on old leases on April 20, 1977, the words "or would have been . . . applicable" in section 104 were intended to apply the rates established for independent producers to all pipeline-produced gas.

Allowing pipeline-produced gas to receive the same prices that would apply if it were produced by an independent producer fully comports with the language and intent of the NGPA. Section 104 establishes the maximum lawful prices for natural gas committed or dedicated to interstate commerce on the day before enactment of the NGPA. Since *Mid-Louisiana*, there is no longer any dispute that pipeline-produced old gas qualifies for pricing under this section. In drafting the NGPA, Congress did not explain how section 104 would be applicable to pipeline-produced gas. This issue was not considered until after the *Mid-Louisiana* decision that the NGPA applies to pipeline production, some 7 years later. Since Congress did not address the issue, the Commission must determine the issue in light of the plausible interpretations of section 104(b)(1). A common sense reading of the statute gives no hint that Congress envisioned more than one meaning for "just and reasonable rate." The most widely accepted meaning of that term is the wellhead rate applicable to gas sold by independent producers. To find that "just and reasonable rate" means a rate that could be derived from a pipeline's city-gate rate established on a cost-of-service basis would strain the plain meaning of the statute, ignores the fact that the Commission had not set such wellhead rates, and is inconsistent with the overall goal of the NGPA to achieve greater parity between rates of different producers.

Under the NGA, the Commission set rates of general applicability to gas produced and sold in interstate commerce. Absent special treatment, such as was accorded pipelines' production, one of these general rates would apply to all such sales in the interstate market. Before the NGPA, the Commission did not view pipeline production as it did independent production, and so created special pricing rules for this gas. As the *Mid-Louisiana* decision held, however, the NGPA ended this specialized treatment and put pipeline production on the same footing as all other production. The NGPA categories are defined on the basis of the type of well and past uses of its gas, not on the basis of who owns the well. 463 U.S. at 333. Congress, in enacting the NGPA, intended "to continue a policy that had been in effect since 1938: a policy of drawing no distinction between wells owned by a pipeline itself and those owned by an affiliate." 463 U.S. at 337. Congress undoubtedly intended pipeline producers to be treated in the same manner as pipeline affiliate producers. 463 U.S. at 340. Pipeline affiliates are permitted to charge NGPA producer rates subject only to the affiliated entities test.[9]

The Supreme Court held that the Commission's initial position under Order Nos. 58 and 98 (under which all pipeline production would be entitled to NGPA prices except that previously priced on a cost-of-service basis) was "contrary to the history, structure, and basic philosophy of the NGPA," 463 U.S. at 342. Given the premise that pipelines and producers should be afforded the same treatment, which the Supreme Court found inherent in the NGPA, 463 U.S. at 337, the section 104 rates for gas produced by them should be the same. So interpreting section 104 conforms to the generally accepted principle of statutory construction in favor of reading a statute in a way that gives effect to all of its clauses and provisions. *See McDonald v. Thompson*, 305 U.S. 263 (1938).

Essential to the NGPA is the principle that the producer may charge and collect the highest rate for which its gas qualifies. Section 101(b)(5), 15 U.S.C. 3311(b)(5), provides that "if any natural gas qualifies under more than one provision of this title providing for any maximum lawful price or for any exemption from such a price with respect to any first sale of such natural gas, the provision which could result in the highest price shall be applicable." The NGPA contemplated raising the prices of interstate gas, which had been historically below those in the intrastate market, and were generally responsible for the shortage of gas in the interstate market in the 1970's. 463 U.S. at 330–331. The Supreme Court relied on section 101(b)(5) to establish that Congress meant to extend incentives to gas production, without requiring cost-justification. 463 U.S. at 335–6. In our view, the usefulness of natural gas does not depend on who produces it, and there is no reason to believe that any one group of producers is less likely to respond to incentives than any other. Therefore, it follows that pipelines should receive incentive prices for the gas they produce, whatever its category, and it is not reasonable to consider a wellhead rate implicit in a determination of a pipeline's overall cost of service as an incentive price. Given the premise that the NGPA was designed to give the producer an opportunity to qualify for the highest price for which its gas could qualify, the Commission will allow pipeline/producers to take advantage of the existing price structure for producers under the NGA.

[9] *See* 18 CFR 154.42 (1987).

The Commission notes that if the applicable just and reasonable rate for old pipeline production were found to be a wellhead rate implicit in a determination of a pipeline's overall cost of service, such a rate would be difficult to establish. As stated above, a pipeline's production costs were normally measured in relation to total pipeline sales and no unit rate per Mcf or MMBtu of production was actually calculated. The task then would be to derive or constuct a rate at which the expenses of producing gas at the wellhead were passed on to the ultimate consumer. It would be necessary to attempt to derive the actual April 20, 1977, starting-point rate from pipeline cost-of-service data which predate the NGPA. Individual parties may dispute which costs should be allocated to the wellhead price. In the case of pre-NGPA cost-of-service rates determined through settlement, it may be impossible to calculate precisely a unit rate for cost-of-service production.

In summary, either the wellhead rate implicit in a pipeline's overall cost of service *is not* a "just and reasonable" rate under section 104(b)(1), or such an implicit rate *is* a "just and reasonable" rate, so that there are two "just and reasonable" rates which could be applied to old pipeline production under section 104(b)(1)(A). In the former case, the use of an implicit or derived wellhead rate as the applicable rate would not comply with the intent of statute. In the latter case, it is unclear which of the two rates should apply to old pipeline production. We have explained our reasons for rejecting the position that the statute refers to a "just and reasonable rate" implicit in the cost of service rate. However, even assuming *arguendo* that there are two rates applicable under section 104, the Commission resolves the ambiguity consistent with the preceding analysis by allowing pipelines to charge the applicable just and reasonable rate for gas sold by independent producers for all of their company-owned production.[10] As the *Phillips* court pointed out, the Commission has discretion to choose, under these circumstances, which interpretation is more consistent with Congressional intent and the spirit and overall purposes of the NGPA.[11] In our judgment, the interpretation presented herein represents a reasonable accommodation of the several policies committed to our care by the NGA and NGPA.

IV. Conclusion

The NGPA radically departed from the traditional Natural Gas Act methods of valuing gas production and allows parity of pricing between pipeline producers and other producers, both independent and affiliate. The Commission's rule implements both of these precepts. Thus, it is entirely in keeping with the NGPA (and the Supreme Court's holding in *Mid-Louisiana*) to price pipeline-produced gas for NGPA purposes at the prices it would have received under the NGA had it been produced by an independent producer.

Two of the overriding purposes of the NGPA were to eliminate the dual interstate and intrastate market for natural gas, and to provide higher prices to encourage production. See H.R. Doc. No. 95–128, 95th Cong., 1st Sess. 5 (1977). Neither of these purposes is served by creating a distinction between pipeline and independent producers. In achieving the goal of increasing natural gas production, pipeline producers will respond to the price encouragement of NGPA just as independent producers. The NGPA contemplated raising the prices for interstate gas, which had fallen behind the level of prices for intrastate sales. The purpose was to encourage additional production. This purpose applies to all gas which comes under NGPA, whether produced by pipelines or producers.

In keeping with the aforementioned objectives, and in light of the difficulty involved in attempting to ascertain rates under section 104 based on original FPC cost-of-service determinations, the Commission has adopted the general rule that pipeline production would receive section 104 producer ceiling prices. We hold that pipeline production previously priced on a cost-of-service basis will be subject to the same ceiling price as any and all other gas sold in price-regulated first sales under section 104 (or any other section of Title I) of the NGPA.

V. Administrative Finding

In its answer to Midwest, KN argues that the Commission is obligated under the provisions of the Administrative Procedure Act (APA) to provide notice and an opportunity to comment on the remanded issue which is the subject of this order. This request is denied. Section 553(b) of the APA [12] requires that a notice of proposed rulemaking be published in the **Federal Register** and that an opportunity for comment be provided when an agency promulgates regulations. The APA sets forth exemptions to the notice and comment procedures are impractical, unnecessary or contrary to the public interest.

Since this order interprets terms and provisions of the NGPA, it constitutes an interpretative rule within the meaning of the APA, and notice and public comment procedures are therefore unnecessary. Generally, a rule becomes effective not less than 30 days after publication in the **Federal Register**. A rule may become effective sooner if it is an interpretative rule, a statement of policy, or if the agency finds good cause to make it effective sooner. Since this rule is an interpretative rule, the 30-day restriction does not apply. The Commission finds that good cause exists to make this order effective immediately upon issuance.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18518 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[10] The independent producer rates are generally greater than a rate derived from the cost-of-service treatment. In the rare instances where the continuation of cost-of-service treatment would result in a rate higher than the otherwise applicable NGPA ceiling price, the Commission will undertake case-specific review for continued availability of cost-of-service pricing. *See* 18 CFR 154.42(c) (1987).

[11] The court held that on remand "FERC may construe section 104 so as to justify parity in rates, or it may otherwise interpret section 104 . . . " *Phillips* at 1172.

[12] 5 U.S.C. 553(f)(1982).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 86F–0173]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of thiodiethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant for polymers intended to contact food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective August 13, 1987; objections by September 14, 1987.

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

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 28, 1986 (51 FR 19272), FDA announced that a petition (FAP 6B3926) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of thiodiethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant for polymers intended to contact food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use of thiodiethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) is safe, and that 21 CFR 178.2010(b) should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before September 14, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularly the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

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

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

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

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Thiodiethylene bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) (CAS Reg. No. 41484-35-9).	For use only: 1. In adhesives complying with § 175.105 of this chapter. 2 At levels not to exceed 0.5 percent by weight of pressure-sensitive adhesives complying with § 175.125 of this chapter, petroleum alicyclic hydrocarbon resins complying with § 176.170 of this chapter, resins and polymers complying with § 176.180 of this chapter, closures with sealing gaskets complying with § 177.1210 of this chapter, and finished rubber products complying with § 177.2600 of this chapter.
* * * * *	

Dated: August 3. 1987

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–18439 Filed 8–12–87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Monensin Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Cooperative Research Farms, Inc., providing for use of a medicated block containing monensin in pasture cattle. The supplement expands the class of pasture cattle to include dairy and beef replacement heifers.

EFFECTIVE DATE: August 13, 1987.

FOR FURTHER INFORMATION CONTACT: Jack Taylor, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Cooperative Research Farms, Box 69, Charlotteville, NY 12036, has submitted a supplement to NADA 119–253 for a medicated block containing monensin. The NADA was previously approved for increased rate of weight gain in slaughter, stocker, and feeder cattle weighing more than 400 pounds on pasture. The suppplement adds dairy and beef replacement heifers to the class of pasture cattle for which the drug is labeled for use. The supplement is approved and 21 CFR 520.1448a(d)(4)(iii) is amended to reflect the approval

Elanco Products Co. has authorized use of data in NADA 95-735 to support approval of NADA 119-253.

This is a Category II Suplement (42 FR 64367; December 23, 1977), which does not require a reevaluation of the underlying safety and effectiveness data in the original approval. This determination is based on the fact that the use of the product is being extended to immature cattle intended for breeding purposes so that tissue residues would not be expected and the product's effectiveness has been previously established in other pasture cattle of the same weight.

Approval of this supplement is an administrative action that did not require generation of new effectiveness or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an invironmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

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, Part 520 is amended as follows:

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

1. 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.

§ 520.1448a [AMENDED]

2. In § 520.1448a *Monensin blocks* by removing the first sentence of paragraph (d)(4)(iii) and inserting in its place "Blocks to be fed free choice to pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) weighing more than 400 pounds."

Dated: August 6, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87-18438 Filed 8-12-87; 8:45 am]

BILLING CODE 4160-01-M

PEACE CORPS

22 CFR Part 307

Standards of Conduct

AGENCY: Peace Corps.

ACTION: Final rule.

SUMMARY: The Peace Corps Standards of Conduct have been amended to reflect recommendations for improvement made by the Office of Government Ethics and the Peace Corps.

EFFECTIVE DATE: August 13, 1987.

FOR FURTHER INFORMATION CONTACT: Randi J. Greenwald, Designated Agency Ethics Official, Peace Corps, 806 Connecticut Avenue, NW., Room M-1207, Washington, DC 20526. Telephone 202-254-3114.

SUPPLEMENTARY INFORMATION: The following regulations amend the Peace Corps Standards of Conduct. Therefore, a notice of proposed rulemaking was not published for these final regulations. These regulations are not subject to the review requirements of Executive Order 12291 because they relate to agency personnel.

List of Subjects in 22 CFR Part 307

Political activities, (Government employees), Conduct standards, Ethical conduct, Financial disclosure, Government employees, Conflicts of interest.

Title 22, Chapter III, is amended by revising Part 307 to read as follows:

PART 307—PEACE CORPS STANDARDS OF CONDUCT

Subpart A—General

Sec.
307.735-101 Introduction.
307.735-102 Definitions.

Subpart B—General Conduct and Responsibilities of Employees

307.735-201 Proscribed actions—Executive Order 11222.
307.735-202 General conduct prejudicial to the Government.
307.735-203 Criminal statutory prohibitions—conflict of interest.

Subpart C—Outside Employment, Activities, and Associations

307.735-301 In general.
307.735-302 Association with potential contractor prior to employment.
307.735-303 Association with Peace Corps contractor or potential contractor while an employee.
307.735-304 Employment after leaving Peace Corps.
307.735-305 Employment with Peace Corps contractor.
307.735-306 Association with non-Peace Corps contractor while a Peace Corps employee.
307.735-307 Gifts, entertainment, and favors.
307.735-308 Economic and financial activities of employees abroad.
307.735-309 Information.
307.735-310 Speeches and participation in conferences.
307.735-311 Partisan political activity.
307.735-312 Use of Government property.
307.735-313 Indebtedness.
307.735-314 Gambling, betting, and lotteries.
307.735-315 Discrimination.
307.735-316 Related statutes and regulations.

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

307.735-401 Submission of statements.
307.735-402 Review of statements.

Authority: E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964-1965, Supp. 306; 5 CFR Part 735.

Subpart A—General

§ 307.735-101 Introduction.

(a) Section 735.101 of title 5 of the Code of Federal Regulations requires each agency head to issue his or her agency regulations regarding the ethical conduct and other responsibilities of all of its employees. All employees are responsible for complying with these regulations. One of the main purposes of the regulations in this part is to encourage individuals faced with questions involving subjective judgment to seek counsel and guidance. The Designated Agency Ethics Official (DAEO) and Deputy and Alternate DAEO in the Office of General Counsel are designated to be the counselors for Peace Corps with respect to these matters. They will provide authoritative advice and guidance to any Peace Corps employee, former employee, or potential employee who seeks it.

(b) The Peace Corps Committee on Conflict of Interest will review and monitor the Agency's policies and procedures on conflict of interest. The committee shall consist of the General Counsel, the Associate Director for Management, the Director for Compliance, the Director of Contracts, the Associate Director for International Operations, and the Director's designee, who shall be a nonvoting member. Committee membership is not delegable. The Designated and Deputy Agency Ethics Officials shall act as advisors to the Committee and shall record the Committee's decisions. The Committee, by majority vote, shall have the authority to:

(1) Adopt the procedures necessary to insure the implementation of and compliance with the conflict of interest regulations found at §§ 307.735-301 through 307.735-305.

(2) Issue interpretive opinions or clarifying statements on actual or hypothetical situations involving the provisions of §§ 307.735–301 through 307.735–305.

(3) Accept and review reports filed under § 307.735–302(b).

(4) Grant specific relief from the provisions of §§ 307.735–303 through 307.735–305 by a majority vote of the committee, if after due consideration the committee finds that:

(i) No actual conflict of interest exists, and

(ii) The purpose of the rule would not be served by its strict application, and

(iii) A substantial inequity would otherwise occur. In each such case the committee shall issue a written decision setting forth its findings as required above. The committee may make any exception subject to such conditions and restrictions as it deems appropriate.

(c) Any violation of the regulations in this part may be cause for remedial or disciplinary action. Remedial action may include changes in assigned duties, disqualification for a particular assignment, divestment of a conflicting interest, and other action as appropriate. Violation of those provisions of the regulations in this part which reflect legal prohibitions may also entail penalties provided by law.

(d) This part applies to all employees of Peace Corps. "Employee" as used in this part includes regular employees, Presidential appointees, "special Government employees," experts and consultants whether employed on a full-time, part-time, or intermittent basis, and Foreign Service National employees (FSNs).

§ 307.735–102 Definitions.

(a) "Special Government employee" as used herein means a person appointed or employed to perform temporary duties for Peace Corps with or without compensation, on a full-time, part-time, or intermittent basis, for not to exceed 130 days during any period of 365 days.

(b) "Regular Government employee" as used herein means any officer or employee other than a Special Government employee.

(c) "Organization" as used herein includes profit and non-profit corporations, associations, partnerships, trusts, sole proprietorships, foundations, individuals and foreign, State and local government units.

(d) "Potential Contractor" means any organization or individual that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek a specific contract or other agreement.

(e) "Associated with" means:

(1) That the person is a director of the organization or is a member of a board or committee which exercises a recommending or supervisory function in connection with a Peace Corps project;

(2) That the person serves as an employee, officer, owner, trustee, partner, consultant, or paid advisor (general membership in an organization is not included within the definition of "associated with"; however, because general membership in an organization doing business with the Peace Corps can result in problems of the appearance of conflicts of interest, each such general membership should be evaluated by the DAEO);

(3) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, any voting shares of an organization;

(4) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, either beneficially or as trustee, a financial interest in an organization through stock, stock options, bonds, or other securities, or obligations; or

(5) That a person has a continuing financial interest in an organization, such as a bona fide pension plan, valued at $10,000 or more, through an arrangement resulting from prior employment or business or professional association; or

(6) That the person's spouse or other member of his or her immediate household has a personal or nonpersonal services contract or is employed by a Peace Corps contractor and assigned to a Peace Corps contract.

In accordance with the provisions of 18 U.S.C. 208(b) (1) and (2), the DAEO may determine that a financial interest under (e)(3) or (4) of this section is not so substantial as to affect the integrity of the employee's services, or make a blanket determination by a general rule published in the **Federal Register** that certain classes of holdings are too remote or inconsequential to affect the integrity of the employee's services.

The term "associated with" does not include an indirect interest, such as ownership of shares in a diversified mutual fund, bank or insurance company, which in turn owns an interest in an organization which has, or is seeking or is under consideration for a contract or other agreement. Such an "indirect" interest is hereby determined pursuant to 18 U.S.C. 208(b)(2) to be too remote to affect the integrity of the employee's services.

Subpart B—General Conduct and Responsibilities of Employees

§ 307.735–201 Proscribed actions—Executive Order 11222.

As provided by the President in Executive Order No. 11222, whether specifically prohibited by law or in the regulations in this part, no U.S. regular or special Government employees shall take any action which might result in, or create the appearance of:

(a) Using public office or employment for private gain, whether for themselves or for another person, particularly one with whom they have family, business, or financial ties.

(b) Giving preferential treatment to any person.

(c) Impeding Government efficiency or economy.

(d) Losing complete independence or impartiality.

(e) Making a Government decision outside official channels.

(f) Affecting adversely the confidence of the public in the integrity of the Government.

(g) Using Government office or employment to coerce a person to provide financial benefit to themselves or to other persons, particularly anyone with whom they have family, business or financial ties.

§ 307.735–202 General conduct prejudicial to the Government.

An employee may not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct prejudicial to the Government (5 CFR 735.209).

§ 307.735–203 Criminal statutory prohibitions: Conflict of interest.

(a) *Regular Government employees.* Regular employees of the Government are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies to both paid and unpaid representation of another (18 U.S.C. 203 and 205).

(2) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208). This restriction shall not apply if an employee advises the official responsible for appointment to his or her position of the nature and circumstances of the matter, fully discloses the financial interest, and receives in

advance from the appointing official a written determination that the interest is not so substantial as to affect the integrity of the Peace Corps.

(3) They may not, after Government employment has ended, represent anyone other than the United States in connection with a particular matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(4) They may not for 2 years after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restraint described in paragraph (a)(3) of this section if the matter is one in which the employee participated personally and substantially (18 U.S.C. 207).

(5) They may not receive any salary, or supplementation of their Government salary, from a private source as compensation for services to the Government (18 U.S.C. 209).

(b) *Special Government employees.* Special Government employees are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which they have at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(2) They may not, except in the discharge of official duties, represent anyone else in a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365. They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially (18 U.S.C. 205). (See § 307.735–303(b) for additional nonstatutory Agency restrictions on a special employee representing any other person or organization in a matter pending before the Agency.) The restrictions described in paragraphs (b)(1) and (2) of this section apply to both paid and unpaid representation of another.

(3) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208).

(4) They may not, after their Government employment has ended, represent anyone other than the United States in connection with a particular matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(5) They may not, for 2 years after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restriction described in paragraph (b)(4) of this section if the matter is one in which they participated personally and substantially (18 U.S.C. 207).

(c) *Senior Employees.* Employees in positions for which the basic rate of pay is specified in subchapter II of chapter 53 of title 5, United States Code (Executive Schedule Pay Rates), or a comparable or greater rate of pay under other authority; and employees in positions which involve significant decision-making or supervisory responsibility for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 (FE–2), are Senior Employees.

(1) Senior Employees are subject to the criminal conflict-of-interest statutes at 18 U.S.C. 203, 205, 207 (a), (b), and (c), 208 and 209. Within 2 years after his or her employment has ceased, no Senior Employee may knowingly represent or aid, counsel, advise, consult, or assist in representing any other person (except the United States) by personal presence at any formal or informal appearance before:

(i) Any department, agency, or court, or any officer or employee thereof,

(ii) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(iii) In which he or she participated personally and substantially as an officer or employee.

(2) Any Senior Employee, other than a special Government employee who serves for less than 60 days in a calendar year, who, within one year after his or her employment has ceased, knowingly acts as an agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to

(i) The Peace Corps, or any of its officers or employees,

(ii) In connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, or other particular matter, and

(iii) Which is pending before the Peace Corps or in which the Peace Corps has a direct and substantial interest shall be fined not more than $10,000, or imprisoned for not more than 2 years, or both.

Subpart C—Outside Employment, Activities, and Associations

§ 307.735–301 In general.

(a) There is no general prohibition against Peace Corps employees holding outside employment, including teaching, lecturing, or writing, but no employee may engage in outside employment or associations if they might result in a conflict or an appearance of conflict between the private interests of the employee and his or her official responsibility. As provided in 5 CFR 735.203(a), incompatible activities include, but are not limited to, acceptance of a fee or anything of monetary value when acceptance may result in an actual or apparent conflict of interest, and outside employment which tends to impair the employee's mental or physical capacity to perform Government duties and responsibilities in an acceptable manner. Any employee planning to engage in outside employment shall so notify his or her supervisor and the DAEO of the name of the proposed employer and the nature of the proposed duties. The DAEO will acknowledge receipt of this information to the employee and supervisor. If the DAEO believes that the information raises a question of conflict of interest, the DAEO shall submit the information for review and resolution to the Committee on Conflict of Interest in accordance with § 307.735–101.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

(c) An employee shall not have a direct or indirect financial interest that

conflicts substantially or appears to conflict substantially with his or her Government duties and responsibilities. Nor may an employee engage in, directly or indirectly, a financial transaction as a result of or primarily relying on information obtained through his or her Government employment.

§ 307.735-302 Association with potential contractor prior to employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a contract to an organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a contract with the Agency, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision processes regarding the contract or agreement.

(b) When the Director, Deputy Director, or an Associate Director becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a contract with the Agency, he or she shall refrain from participating in the decision process and immediately notify the Director of the Office of Compliance, who shall select an independent third party, not in any way connected or associated with the concerned official. The third party shall participate in and review the decision process to the extent he or she deems necessary to insure objectivity and the absence of favoritism. Said third party shall preferably be a person experienced in the area of government contracts. The third party shall file a report in writing with the Committee on Conflict of Interest stating his or her conclusions, observations, or objections, if any, to the decision process concerning the contract or agreement, which document shall be attached to and become a part of the official file.

§ 307.735-303 Association with Peace Corps contractor or potential contractor while an employee.

(a) No regular employee may be associated with any Peace Corps contractor or potential contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a contractor.

(b) No regular or special employee, except in his or her official capacity as a Peace Corps employee, shall either participate in any way on behalf of any organization in the preparation or development of a contract proposal involving Peace Corps or represent any other organization in a matter pending before Peace Corps. In the event that a regular or special employee participates while an employee of Peace Corps in any aspect of the development of a contract or agreement proposal on behalf of an organization, or represents another organization in a matter pending before Peace Corps, that organization shall be suspended from consideration for the contract or other agreement. If the employee's prohibited participation is discovered after award of the contract, appropriate disciplinary action shall be taken, including, but not limited to, the placement of a letter describing the violation in the employee's official personnel file.

(c) No regular or special employee who, prior to his or her employment at Peace Corps, participated in the development of a contract or other agreement proposal on behalf of another organization, shall participate as a Peace Corps employee in any aspect of the decision process regarding that contract or other agreement, or, if the contract or other agreement is awarded, in any oversight or management capacity in relation to that contract or other agreement. In addition, any such contract or other agreement shall only be awarded through a competitive process. In the event a regular or special employee who participated in the development of the contract or other agreement proposal prior to being employed at Peace Corps does participate as a Peace Corps employee in the decision process for such contract or other agreement, the organization shall be suspended from consideration.

(d) If a special employee participates as an employee of Peace Corps in any aspect of the development of a proposal, whether or not such participation is minimal or substantial, any organization with which he or she is associated shall be suspended from consideration for the contract or other agreement.

(e) If an organization with which a special employee is associated submits a proposal for a contract or other agreement, and the special employee did not participate either as an employee of Peace Corps or an associate of the organization in any aspect of the proposal or the application therefor, the matter shall be referred to the Committee on Conflict of Interest for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the proposed contract or other agreement.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policy making or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed contract or other agreement.

(3) Whether awarding the contract or other agreement to the organization would result in the appearance of or the potential for a conflict of interest.

(4) The process to be used in awarding the contract or other agreement.

(f) If a special employee wishes to become or remain associated with a Peace Corps contractor while he or she is an employee of Peace Corps, subject to the restrictions (b) through (e) of § 307.735-303, the matter shall be referred to the Committee on Conflict of Interest for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the contract or other agreement.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policymaking or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed contract or other agreement.

(3) Whether such a relationship would result in the appearance of or the potential for a conflict of interest.

(g) Any suspension involving proposed contracts under this rule shall be in accordance with procedures set forth in the applicable Federal Acquisition Regulation, FAR 9.4.

§ 307.735-304 Employment after leaving Peace Corps.

(a) Employees may negotiate for prospective employment with non-Federal Government organizations only when they have no duties as Peace Corps employees which could affect that organization's interest, or after they have disqualified themselves, on the

written permission of their supervisor, from such duties.

(b) For 1 year after leaving Peace Corps, no regular or special employee may serve pursuant to a personal or nonpersonal services contract or other agreement or accept employment with a Peace Corps contractor for a position in which he or she would be working in any activity supported in whole or in part by Peace Corps funds received under a Peace Corps program which was within the boundaries of the employee's official responsibility or in which he or she participated personally while employed at Peace Corps. This 1-year ban shall not apply to those overseas employees whose positions are converted to personal services contracts at the convenience of the Peace Corps as determined jointly by the Associate Directors for International Operations and Management.

(c) If, within 1 year after leaving Peace Corps, an individual accepts employment in violation of this rule, Peace Corps will disallow the costs allocated under the contract or other agreement for that position. In addition, a letter describing the violation will be placed in the personnel files of the former employee and the requiring office current or former staff member(s) responsible for issuing an individual personal or non-personal services contract.

§ 307.735–305 Employment with Peace Corps contractor.

An employee of a Peace Corps contractor who is compensated directly or indirectly from Peace Corps funds will be ineligible to be compensated under any personal or nonpersonal services contract with this Agency which will result in the employee being paid twice for the same time or product.

§ 307.735–306 Association with non-Peace Corps contractor while a Peace Corps employee.

(a) *Teaching, lecturing, and writing*—(1) *Use of information.* An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his or her Government employment, except when that information has been or on request will be made available to the general public or when the agency head gives advance written authorization for the use of nonpublic information on the basis that the proposed use is in the public interest.

(2) *Compensation.* No employee may accept compensation or anything of value for any lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the Peace Corps programs or which draws substantially on official data or ideas which have not become part of the body of public information.

(3) *Clearance of publications.* No employee may submit for publication any writing, other than recruiting information, the contents of which are devoted to the Peace Corps programs or to any other matter which might be of official concern to the U.S. Government without in advance clearing the writing with the Director of Public Affairs. Before clearing any such writing, the Director of Public Affairs will consult with the appropriate Peace Corps office.

(b) *State and local government employment.* Regular employees may not hold office or engage in outside employment under a State or local government except with prior approval of the General Counsel, Peace Corps.

(c) All employees not required by § 307.735–401 to report their outside employment and financial interests shall inform their supervisors of all outside paid and unpaid employment they hold or accept.

(d) Employees in positions classified at the FP–1 or above levels who intend to engage in outside employment shall notify the DAEO in writing of the nature of their duties and the name and address of the organization for which or the individual for whom they will work. The notification will be made annually by June 30, with additions or deletions submitted as they occur.

§ 307.735–307 Gifts, entertainment, and favors.

(a) *From donors dealing with Peace Corps.* (1) No regular or special employees may solicit or accept, directly or indirectly, for themselves, for any member of their family, or for any person with whom they have business or financial ties, any gift, gratuity, favor, entertainment, or loan or any other thing of value, from any individual or organization which:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with Peace Corps;

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's official responsibility;

(iii) It is any way attempting to affect the employee's exercise of his or her official responsibility; or

(iv) Conducts operations or activities that are regulated by Peace Corps.

(2) Paragraph (a)(1) of this section does not prohibit, even if the donor has dealings with Peace Corps:

(i) Acceptance of things of value from parents, children, or spouse if those relationships rather than the business of the donor is the motivating factor for the gift;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of breakfast, luncheon, or dinner meetings or other meetings;

(iii) Solicitation and acceptance of loans from banks or other financial institutions to finance proper and usual activities of employees, such as home mortgage loans, solicited and accepted on customary terms;

(iv) Acceptance on behalf of minor dependents of fellowships, scholarships, or educational loans awarded on the basis of merit and/or need;

(v) Acceptance of awards for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

(3) Regular or special employees need not return unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other things of nominal intrinsic value.

(b) *From other Peace Corps employees.* No employees in superior official positions may accept any gifts presented as contributions from employees in lower grades. No employees shall solicit contributions from other employees for a gift to an employee in a superior official position, nor shall any employees make a donation as a gift to an employee in a superior official position. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(c) *From foreign governments.* No regular employee may solicit or, without the consent of the Congress, receive any present, decoration, emolument, pecuniary favor, office, title, or any other gift from any foreign government. See 5 U.S.C. 7342; Executive Order 11320; and 22 CFR Part 3.

(d) *Gifts to Peace Corps.* Gifts to the United States or to Peace Corps may be accepted in accordance with section 10(a)(4) of the Peace Corps Act and Peace Corps Manual section 721.

(e) *Reimbursement for expenses.* Neither this section nor § 307.735–310(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part and for which no Government payment or reimbursement is made. An employee may personally accept reimbursement

from organizations that qualify for tax-deductible contributions under section 501(c)(3) of the Internal Revenue Code. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. Nor does it allow an employee to receive non-Government reimbursement of travel expenses for travel on official business under Peace Corps orders; but rather, such reimbursement, if any, should be made to Peace Corps and amounts received should be credited to its appropriation. If an employee receives accommodations, goods, or services in kind from a non-Government source, this item or items will be treated as a donation to Peace Corps and an appropriate reduction will be made in per diem or other travel expenses payable.

§ 307.735-308 Economic and financial activities of employees abroad.

(a) *Prohibitions in any foreign country.* A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency;

(3) Sales to unauthorized persons whether at cost or for a profit of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds for persons in one country to persons in another country, including the United States;

(8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) *Prohibitions in country of assignment.* (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which he or she is assigned or detailed in his or her own name or through the agency of any other person.

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in his or her country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee for the U.S. Government.

§ 307.735-309 Information.

(a) *Release of information to the press.* (1) Regular or special employees shall not withhold information from the press or public unless that information is classified or administratively controlled (limited official use). All responses to requests for information from the press should be referred to the Director of Public Affairs who will be responsible for all releases. Regular and special employees should be certain that information given to the press and public is accurate and complete.

(2) Any questions as to the classification or administrative control of information should be referred to the DAEO.

(3) No regular or special employee may record by electronic or other divice any telephone or other conversation, or listen in on any telephone conversation without the consent of all parties thereto.

(b) *Disclosure and misuse of inside information.* No employee may, directly or indirectly, disclose or use for his or her own benefit, or for the private benefit of another, inside information as described in paragraph (c) of this section. The use of such information by an employee is restricted to the proper performance of his or her official duties. The disclosure of such information is restricted to official Peace Corps channels unless disclosure is authorized by the Director, the Deputy Director, the General Counsel, or an Associate Director of Peace Corps. In particular, no employee may:

(1) Engage in, directly or indirectly, a financial transaction as a result of or primarily relying on such information; or

(2) Publish any book or article, or deliver any speech or lecture, based on or using such information.

(c) *Definition.* The term "inside information" as used in this section means, generally, information obtained under Government authority which has not been made available to the general public and which could affect the rights or interests of the Government or of a non Government organization or person. Such information includes information about Peace Corps operations or administration, and personnel which could influence someone's dealing with Peace Corps.

(d) This section is not intended to discourage the disclosure through proper channels of information which has been or should be made public, or which is by law to be made available to the public. Also, employees are encouraged to teach, lecture, and write, provided they do so in accordance with the provisions of this section and §§ 307.735-301 and 307.735.306.

§ 307.735-310 Speeches and participation in conferences.

(a) *Fees and expenses.* (1) Although an employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is Peace Corps or Peace Corps programs or if such services are part of the employee's official Peace Corps duties, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to Peace Corps under the authority of section 10(a)(4) of the Peace Corps Act.

(2) When a meeting, discussion, etc., to which paragraph (a)(1) of this section refers takes place at a substantial distance from the employee's home, he or she may accept reimbursement for the actual cost of transportation and necessary subsistence, or expenses, but in no case shall he or she receive any amount for personal benefit. Such reimbursements shall be reported by the employee to his or her immediate supervisors.

(3) An employee may accept fees for speeches, etc. dealing with subjects other than Peace Corps or Peace Corps programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties.

(4) In order to avoid even the appearance of a conflict of interest, whether or not a fee is offered should

not be determinative of whether an employee makes a speech or participates in a discussion if the subject is Peace Corps or its programs, or if such services are part of the employee's official duties.

(b) *Racial segregation.* No employee may participate for Peace Corps in conferences or speak for Peace Corps before audiences where any racial group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

(1) When a request for Peace Corps speakers or participation is received under circumstances where segregation may be practiced, the Director of Public Affairs shall make specific inquiry as to the practices of the organization before the request is filled.

(2) If the inviting organization shows a willingness to modify its practices, Peace Corps will cooperate in such efforts.

(3) Exceptions to this paragraph may be made only by the Director, Peace Corps and in his or her discretion.

§ 307.735–311 Partisan political activity.

(a) *Prohibited activities.* No employee may:

(1) Use his or her official authority or influence for the purpose of interfering with an election or affecting the result thereof; or

(2) Take any active part in partisan political management or in political campaigns, except as may be provided by or pursuant to statute, 5 U.S.C. 7324.

(b) *Intermittent employees.* Persons employed on an irregular or occasional basis are subject to paragraph (a) of this section only while in active duty status and for the 24 hours of any day of actual employment.

(c) *Excepted activities.* Paragraph (a) of this section does not apply to:

(1) Nonpartisan campaigns and elections in which none of the candidates is to be nominated by or elected as representing a national or State political party, such as most school board elections; or

(2) Political activities connected with questions of public interest which are not specifically identified with national or State political parties, such as constitutional amendments, referenda, and the like (5 U.S.C. 7326).

(d) *Excepted communities.* Paragraph (a) of this section does not apply to employees who are residents of certain communities. These communities, which have been designated by the Office of Personnel Policy and Operations (5 CFR 733.301), consist of a number of communities in suburban Washington, DC, and a few communities elsewhere in which a majority of the voters are Government employees. Employees who are residents of the designated communities may be candidates for, or campaign for others who are candidates for, local office if they or the candidates for whom they are campaigning are running as independent candidates. An employee may hold local office only in accordance with §§ 307.735–301 through 307.735–306 relating to outside employment and associations.

(e) Special Government employees are subject to the statute for the 24 hours of each day or which they do any work for the Government.

(f) While regular employees may explain and support governmental programs that have been enacted into law, in exercising their official responsibilities they should not publicly support or oppose pending legislation, except in testimony required by the Congress.

§ 307.735–312 Use of Government property.

A regular or special employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government for other than officially approved activities. All employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to them. By law, penalty envelopes may be used only for official U.S. Government mail.

§ 307.735–313 Indebtedness.

Peace Corps considers the indebtedness of its employees to be a matter of their own concern and will not function as a collection agency. Nevertheless, a regular or special employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of a dispute between an employee and an alleged creditor, this section does not require Peace Corps to determine the validity or amount of the disputed debt.

§ 307.735–314 Gambling, betting, and lotteries.

A regular or special employee shall not participate, while on Government owned or leased property or while on duty for the Government in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 307.735–315 Discrimination.

No regular or special employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action and may not practice, threaten, or promise any action against or in favor of an employee or applicant for employment because of race, color, religion, sex, age, or national origin and in the competitive service on the basis of politics, marital status, or physical handicap.

§ 307.735–316 Related statutes and regulations.

Each employee should be aware of the following related statutes and regulations:

(a) House Concurrent Resolution 175, 85th Congress, 2nd Session, 72A Stat. B12, the "Code of Ethics for Government Service."

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against accepting honoraria of more than $2,000 per speech, appearance, or article (2 U.S.C. 441i).

(e) The prohibitions against: (1) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783), and (2) the disclosure of confidential information (18 U.S.C. 1905).

(f) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibitions against fraud or false statements in a Government matter and filing false claims (18 U.S.C. 1001 and 287).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against: (1) Embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, and 607.

(p) The prohibition against gifts to employees' superiors and the acceptance thereof (5 U.S.C. 7351).

(q) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, which is specifically applicable to special Government employees as well as to regular employees.

(r) The prohibition against accepting gifts from foreign governments (5 U.S.C. 7342).

(s) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(t) The prohibition against appointing or advocating the appointment of a relative to a position within the Agency (5 U.S.C. 3110).

(u) The prohibition against postemployment conflicts of interest (18 U.S.C. 207).

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

§ 307.735–401 Submission of statements.

(a) Officials and employees occupying positions classified at the FE–3 level and above are required by Title II of the Ethics in Government Act of 1978, as amended, Title II of Pub. L. 95–521, to file annual Executive Personnel Financial Disclosure Reports. They need not also file the statement of employment and financial interests required by the following provisions.

(b)(1) Regulations of the Office of Personnel Policy and Operations (5 CFR Part 735) require Peace Corps to adopt regulations providing for the submission of statements of employment and financial interests from certain regular employees and all special employees.

(2) All special employees and those regular employees occupying positions described in paragraph (c) of this section shall complete statements of employment and financial interests and submit them to the DAEO not later than 5 days prior to entrance on duty. The Director of Personnel Policy and Operations shall be responsible for supplying all new employees with the necessary forms prior to their initial employment, extensions, or reappointments.

(3) The initial statement of employment and financial interests shall include information on organizations with which the employee was associated during the 2 years prior to his or her employment by Peace Corps, as well as information about current associations. Special employees shall also indicate to the best of their knowledge which organizations listed currently on their forms have contracts with or are applying for contracts with the Peace Corps. If any information required to be included on the statement, including holdings placed in trust, is not known to an employee but is known to another person, he or she is required to request that other person to submit information on his or her behalf.

(4) Current employees shall file a statement on or before June 30 each year. The Director of Personnel Policy and Operations shall be responsible for insuring that statements are distributed to all affected employees. Notwithstanding the filing of the annual report required by this paragraph each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a conflict of interest and a violation of the conflict-of-interest provisions of section 208 of title 18, United States Code, or the conflict-of-interest provisions of this part.

(5) In the case of temporary summer employees hired at FP–7 or equivalent and below to perform duties other than those of an expert or consultant, the reporting requirement will be waived. It may also be waived by the Director of Personnel Policy and Operations with respect to other appointments, except as experts or consultants, upon a finding that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the reporting of employment and financial interests is not necessary to protect the integrity of the Government.

(6) Regular or special employees are not required to submit in a statement of employment and financial interests any information about their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization not conducted as a business enterprise. For this purpose, any organizations doing work involving or potentially involving contracts with the Government are considered business enterprises and are required to be included in a regular or special employee's statement of employment and financial interests.

(7) The statements of employment and financial interests required are in addition, and not in substitution for or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or other persons' participation is prohibited by law, order, or regulations.

(8) A regular employee who believes that his or her position has been improperly included under Peace Corps regulations as one requiring the submission of a statement of employment and financial interests shall be given an opportunity for review through Peace Corps' grievance procedures to determine whether the position has been improperly included.

(c) Statements shall be submitted by employees who are engaged in any aspect of Government contracting or procurement activities including, but not limited to, the planning, design, award, monitoring, and evaluation of Peace Corps procurement of goods and services; and by all special employees (expert and consultants).

§ 307.735–402 Review of statements.

(a) The DAEO shall review all statements and forward the names of all listed organizations to the Director of Contracts. In addition, if the information provided in the statement indicates on its face a real, apparent, or potential conflict of interest under §§ 307.735–301 through 307.735–305 of these standards, the DAEO will review the situation with the particular employee. If the DAEO and the employee are unable to resolve the conflict to the DAEO's satisfaction, or if the employee wishes to request an exception to any of the above enumerated rules, the case will be referred to the Committee on Conflict of Interest. The Committee is authorized to recommend appropriate remedial action to the Director, who is authorized to take such action as may include, but is not limited to, changing assigned duties, requiring the employee or special employee to divest himself of a conflicting interest, taking disciplinary

action, or disqualifying or accepting the self-disqualification of the employee or special employee for a particular assignment.

(b) The Contracts Division shall maintain a list of all the organizations with which employees are or have been associated, as well as a list of all current contractors with the Agency. The list of organizations shall include the names of all employees associated with the identified organizations. When names of organizations with which new employees are or have been associated are submitted to the Contracts Office, they shall be checked against the list of current contractors. Similarly, before any new contracts are awarded, the names of the potential contractors will be checked against the master list of organizations with which employees are or have been associated. Any real, apparent, or potential conflicts which come to light as a result of these cross checks will be referred to the DAEO for review. The DAEO will proceed as in paragraph (a) of this section, referring the matter to the Committee on Conflict of Interest if necessary.

(c) Whenever an organization submits a proposal or application or otherwise indicates in writing its intent to apply for or seek a specific contract, the Peace Corps Contracts Division shall immediately forward a copy of the relevant sections of the Agency standards of conduct to that organization.

(d) Whenever a regular or special employee begins or terminates his or her employment with Peace Corps, the Office of Personnel Policy and Operations shall provide that employee with a copy of the rules found in § 307.735–304 restricting a person's employment after leaving Peace Corps. Personnel shall also notify the DAEO when an employee terminates. One year after the date of termination the DAEO will instruct the Contracts Office to remove from the master list any organizations with which the terminated employee was associated unless other current employees are associated with those organizations. Six years after the date of termination the DAEO will destroy the statement of employment and financial interests.

Signed at Washington, DC, on July 2, 1987.

Loret Miller Ruppe,

Director, Peace Corps.

[FR Doc. 87–18107 Filed 8–12–87; 8:45 am]

BILLING CODE 6051–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 62

Enrollment Appeals

July 16, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is revising the regulations contained in Part 62 which provide enrollment appeal procedures. The stated purpose of this rule has been to provide procedures for the filing of appeals in conjunction with the rejection of any name from a roll of an Indian tribe when final approval rests within the purview of the Secretary of the Interior. The stated purpose no longer adequately covers the various enrollment actions subject to Secretarial appeal which should properly be processed under this rule. Because of the narrow stated purpose, the procedures contained in this Part 62 apply to appeals from some adverse enrollment actions while the procedures contained in 25 CFR Part 2, which provide procedures for appeals from administrative actions by BIA officials, apply to appeals from other adverse enrollment actions. This has resulted not only in confusion over which rule governs an appeal from a particular enrollment action, but also in different procedures being applicable to individuals who may be appealing from essentially the same enrollment action. The intent of the revision, therefore, is to provide uniform appeal procedures from adverse enrollment actions where individuals have a right to appeal the action to the Secretary. In addition the regulations have been revised to provide for final Departmental action on certain enrollment appeals by Area Directors of the BIA and to make general changes of an administrative nature, including the elimination of sex-based and gender specific terminology. This Part has been previously redesignated from 25 CFR Part 42 at 47 FR 13327, March 30, 1982.

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Mitchell L. Bush, Jr., Chief, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Room 1352 Main Interior, 1951 Constitution Avenue, NW., Washington DC 20245, telephone number: (202) 343–3592, (FTS 343–3592).

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8.

The rule contained in this Part 62 was promulgated and amended in the mid-60's and there have been no amendments since that time. The stated purpose of Part 62, to provide procedures for the filing of appeals in conjunction with the rejection of any name from a roll of an Indian tribe when final approval thereof rests within the purview of the Secretary of Interior, no longer adequately covers the various enrollment actions or disputes subject to Secretarial appeal which should properly be processed under the same procedures. Currently, both the regulations contained in this Part 62 and in 25 CFR Part 2 can apply depending upon the immediate effect of the enrollment action on the individual. The rule in 25 CFR Part 2 provides procedures for filing appeals from administrative actions by BIA officials. Consequently, any adverse enrollment action subject to a Secretarial appeal which does not result in the removal of a name from a roll must technically be appealed under the procedures contained in 25 CFR Part 2. This can and has resulted in members of the same family being subject to different appeal procedures in conjunction with essentially the same enrollment action. An example is the change in the degree of Indian blood attributed to an individual. For that individual the change may only constitute an administrative action subject to a Part 2 appeal. However, the change can result in the removal of the names of that individual's children or grandchildren from a roll which must be appealed under Part 62.

The service provisions as well as other requirements contained in 25 CFR Part 2 are more burdensome on individuals who are appealing than the Part 62 provisions. Furthermore, the impact of enrollment actions is usually limited to individuals or their immediate family and the substance of the actions or decisions involve information of a personal nature which is subject to the provisions of the Privacy Act. Consequently, the service provisions to other interested parties under 25 CFR Part 2 are unnecessary if not inappropriate. One possible exception is tribal entities in the case of membership actions. However, the regulations in Part 62 provide for tribal participation in the

appeal proceedings when appropriate. The rule in this Part 62 has, therefore, been revised to provide uniform procedures to apply to all Secretarial appeals concerning enrollment matters or disputes.

The revision to this rule is not intended to expand or to create any new rights to a Secretarial appeal. It only provides uniform procedures where there already exists the right to a Secretarial appeal. Adverse enrollment actions from which an individual may file an appeal are enumerated in revised § 62.4. The procedures contained in this revision to Part 62 also apply to a tribal committee filing an appeal as provided for in § 61.11 of Part 61 of this chapter. Under Part 61 when the recommendations and determinations of the tribal committee are applicable, the BIA official will accept the determination of the tribal committee as to an individual's eligibility for tribal membership unless the determination is clearly erroneous. If the BIA official does not accept the recommendations or determinations of the tribal committee, the tribal committee shall be so notified and may file an appeal from the action under the procedures contained in this Part 62.

The organization and wording of Part 62 have been extensively revised in an attempt to eliminate any vagueness or uncertainty as to the actual procedures to be followed. However, the procedures individuals must follow to file an appeal from an adverse enrollment action subject to Secretarial appeal have not been changed. An individual's appeal must be in writing and must be filed within a specified length of time and the burden of proof is on the individual.

A significant procedural change has been included in the revision with regard to procedures BIA personnel will follow. On certain appeals filed from adverse actions taken by a tribal committee or BIA Superintendent, the decision of the BIA Director on the appeal will constitute final Departmental action. The BIA Director will not make a final decision for the Department, however, when the appealed adverse enrollment action is either the change in degree of Indian blood by a tribal committee which affects a tribal member and the tribal governing document provides for an appeal of the action to the Secretary, or the change in degree of Indian blood by a BIA official which affects an individual. Historical records and information relevant to appeals involving blood degree changes may not be readily available to BIA Directors. Consequently, final Departmental action on blood degree changes subject to Secretarial approval will be taken by the Assistant Secretary—Indian Affairs. It should be noted that when the change in degree of Indian blood for a tribal member is by a tribal committee and the tribal governing document does not provide for an appeal of the action to the Secretary, the regulations in this Part 62 would not be applicable. The tribal procedures contained in the tribal governing document would govern.

The primary author of this document is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Room 1352 Main Interior, 1951 Constitution Avenue NW., Washington, DC 20245, telephone number: (202) 343–3592 (FTS–343–3592).

The Department of the Interior has determined that the rule contained in this Part 62 is a rule of agency procedure or practice. The regulations contained in Part 62 govern agency procedures for the filing and processing of enrollment appeals which do not themselves alter the rights or interests of parties although they may alter the manner in which the parties present their viewpoints to the agency. Therefore, this rulemaking action revising Part 62 is exempted under 5 U.S.C. 553(b)(A) from advance notice and public procedure requirements.

In accordance with Office of Management and Budget regulations contained in 5 CFR 1320.3(c), approval of the information collections contained in this rule is not required.

The regulations in this Part 62 provide administrative procedures for the filing of enrollment appeals and are limited in applicability to Departmental personnel, individuals who are appealing enrollment actions where there is a Secretarial appeal and in some instances tribal entities. The number of tribal entities that might be involved is, however, minimal and this rule will not have a significant economic effect on those few tribal entities. Therefore, the Department of the Interior has determined that this is not a major rule under E. O. 12291 and does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

The Department of the Interior has determined that this rule does not significantly affect the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4334(2)(C).

List of Subjects in 25 CFR Part 62

Administrative practice and procedure, Indians—enrollment.

Accordingly, Part 62 of Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is revised to read as follows:

PART 62—ENROLLMENT APPEALS

Sec.

62.1 Definitions.
62.2 Purpose.
62.3 Information collection.
62.4 Who may appeal.
62.5 An appeal.
62.6 Filing of an appeal.
62.7 Burden of proof.
62.8 Advising the tribal committee.
62.9 Action by the Superintendent.
62.10 Action by the Director.
62.11 Action by the Assistant Secretary.
62.12 Special instructions

Authority: 5 U.S.C. 301, 25 U.S.C. 2 and 9.

§ 62.1 Definitions.

As used in these regulations:

"*Assistant Secretary*" means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.

"*Bureau*" means the Bureau of Indian Affairs of the Department of the Interior.

"*Commissioner*" means the Commissioner of Indian Affairs or an authorized representative acting under delegated authority.

"*Department*" means the Department of the Interior.

"*Director*" means the Area Director of the Bureau of Indian Affairs area office which has administrative jurisdiction over the local field office responsible for administering the affairs of a tribe, band, or group of Indians or an authorized representative acting under delegated authority.

"*Secretary*" means the Secretary of the Interior or an authorized representative acting under delegate authority.

"*Sponsor*" means any authorized person, including an attorney, who files an appeal on behalf of another person.

"*Superintendent*" means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility with respect to the affairs of a tribe, band, or group of Indians or an authorized representative acting under delegated authority.

"*Tribal Committee*" means the body of a federally recognized tribal entity vested with final authority to act on enrollment matters.

"*Tribal Governing Document*" means the written organizational statement governing a tribe, band or group of Indians and/or any valid document, enrollment ordinance or resolution enacted thereunder.

"*Tribal Member*" means a person who meets the requirements for enrollment in a tribal entity and has been duly enrolled.

§ 62.2 Purpose.

(a) The regulations in this Part are to provide procedures for the filing and processing of appeals from adverse enrollment actions by Bureau officials.

(b) The regulations in this Part are not applicable and do not provide procedures for the filing of appeals from adverse enrollment actions by tribal committees, unless:

(1) The adverse enrollment action is incident to the preparation of a tribal roll subject to Secretarial approval; or

(2) An appeal to the Secretary is provided for in the tribal governing document.

§ 62.3 Information collection.

In accordance with the Office of Management and Budget regulations contained in 5 CFR 1320.3, approval of the information collection requirements contained in this Part is not required.

§ 62.4 Who may appeal.

(a) A person who is the subject of an adverse enrollment action may file or have filed on his/her behalf an appeal. An adverse enrollment action is:

(1) The rejection of an application for enrollment by a Bureau official incident to the preparation of a roll for Secretarial approval;

(2) The removal of a name from a tribal roll by a Bureau official incident to review of the roll for Secretarial approval;

(3) The rejection of an application for enrollment or the disenrollment of a tribal member by a tribal committee when the tribal governing document provides for an appeal of the action to the Secretary;

(4) The change in degree of Indian blood by a tribal committee which affects a tribal member when the tribal governing document provides for an appeal of the action to the Secretary;

(5) The change in degree of Indian blood by a Bureau official which affects an individual; and

(6) The certification of degree of Indian blood by a Bureau official which affects an individual.

(b) A tribal committee may file an appeal as provided for in § 61.11 of Part 61 of this chapter.

(c) A sponsor may file an appeal on behalf of another person who is subject to an adverse enrollment action.

§ 62.5 An appeal.

(a) An appeal must be in writing and must be filed with the Bureau official designated in the notification of an adverse enrollment action, or in the absence of a designated official, with the Bureau official who issued the notification of an adverse enrollment action; or when the notification of an adverse action is made by a tribal committee with the Superintendent.

(b) An appeal may be on behalf of more than one person. However, the name of each appellant must be listed in the appeal.

(c) An appeal filed by mail or filed by personal delivery must be received in the office of the designated Bureau official or of the Bureau official who issued the notification of an adverse enrollment action by close of business within 30 days of the notification of an adverse enrollment action, except when the appeal is mailed from outside the United States, in which case the appeal must be received by the close of business within 60 days of the notification of an adverse enrollment action.

(d) The appellant or sponsor shall furnish the appellant's mailing address in the appeal. Thereafter, the appellant or sponsor shall promptly notify the Bureau official with whom the appeal was filed of any change of address, otherwise the address furnished in the appeal shall be the address of record.

(e) An appellant or sponsor may request additional time to submit supporting evidence. A period considered reasonable for such submissions may be granted by the Bureau official with whom the appeal is filed. However, no additional time will be granted for the filing of the appeal.

(f) In all cases where an appellant is represented by a sponsor, the sponsor shall be recognized as fully controlling the appeal on behalf of the appellant. Service of any document relating to the appeal shall be on the sponsor and shall be considered to be service on the appellant. Where an appellant is represented by more than one sponsor, service upon one of the sponsors shall be sufficient.

§ 62.6 Filing of an appeal.

(a) Except as provided in paragraph (b) of this section, a notification of an adverse enrollment action will be mailed to the address of record or the last available address and will be considered to have been made and computation of the appeal period shall begin on:

(1) The date of delivery indicated on the return receipt when notice of the adverse enrollment action has been sent by certified mail, return receipt requested; or

(2) Ten (10) days after the date of the decision letter to the individual when notice of the adverse enrollment action has not been sent by certified mail return receipt requested and the letter has not been returned by the post office; or

(3) The date the letter is returned by the post office as undelivered whether the notice of the adverse enrollment action has been sent by certified mail return receipt requested or by regular mail.

(b) When notification of an adverse enrollment action is under the regulations contained in Part 61 of this chapter, computation of the appeal period shall be in accordance with § 61.11.

(c) In computing the 30 or 60 day appeal period, the count begins with the day following the notification of an adverse enrollment action and continues for 30 or 60 calendar days. If the 30th or 60th day falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the appeal period will end on the first working day thereafter.

§ 62.7 Burden of proof.

(a) The burden of proof is on the appellant or sponsor. The appeal should include any supporting evidence not previously furnished and may include a copy or reference to any Bureau or tribal records having a direct bearing on the action.

(b) Criminal penalties are provided by statute for knowingly filing false or fraudulent information to an agency of the United States government (18 U.S.C. 1001).

§ 62.8 Advising the tribal committee.

Whenever applicable, the Superintendent or Director shall notify the tribal committee of the receipt of the appeal and shall give the tribal committee the opportunity to examine the appeal and to present such evidence as it may consider pertinent to the action being appealed. The tribal committee shall have not to exceed 30 days from receipt of notification of the appeal in which to present in writing such statements as if may deem pertinent, supported by any tribal records which have a bearing on the case. The Director or Superintendent may grant the tribal committee

additional time, upon request, for its review.

§ 62.9 Action by the Superintendent.

When an appeal is from an adverse enrollment action taken by a Superintendent or tribal committee, the Superintendent shall acknowledge in writing receipt of the appeal and shall forward the appeal to the Director together with any relevant information or records; the recommendations of the tribal committee, when applicable; and his/her recommendations on the appeal.

§ 62.10 Action by the Director.

(a) Except as provided in paragraph (c) of this section, when an appeal is from an adverse enrollment action taken by a Superintendent or tribal committee, the Director will consider the record as presented together with such additional information as may be considered pertinent. Any additional information relied upon shall be specifically identified in the decision. The Director shall make a decision on the appeal which shall be final for the Department and which shall so state in the decision. The appellant or sponsor will be notified in writing of the decision. Provided that, the Director may waive his/her authority to make a final decision and forward the appeal to the Assistant Secretary for final action.

(b) When an appeal is from an adverse enrollment action taken by a Director, the Director shall acknowledge in writing receipt of the appeal and shall forward the appeal to the Assistant Secretary for final action together with any relevant information or records; the recommendations of the tribal committee, when applicable; and his/her recommendations.

(c) The Director shall forward the appeal to the Assistant Secretary for final action together with any relevant information or records; the recommendations of the tribal committee, when applicable; and his/her recommendations when the adverse enrollment action which is being appealed is either:

(1) The change in degree of Indian blood by a tribal committee which affects a tribal member and the tribal governing document provides for an appeal of the action to the Secretary; or

(2) The change in degree of Indian blood by a Bureau official which affects an individual.

§ 62.11 Action by the Assistant Secretary.

The Assistant Secretary will consider the record as presented, together with such additional information as may be considered pertinent. Any additional information relied upon shall be specifically identified in the decision. The Assistant Secretary shall make a decision on the appeal which shall be final for the Department and which shall so state in the decision. The appellant or sponsor will be notified in writing of the decision.

§ 62.12 Special instructions.

To facilitate the work of the Director, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part 62.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-18454 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[T.D. 8150]

Abatement of Interests; Definition of Ministerial Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the definition of ministerial act for the purposes of abatement of interest. Changes to the applicable law were made by the Tax Reform Act of 1986. The temporary regulations affect both taxpayers requesting abatement of certain interest and Internal Revenue Service personnel responsible for administering the abatement provision and provide these persons with guidance needed to comply with the changes to the law. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations for the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: The regulations are effective for interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T: (202-566-3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Procedure and Administration Regulations (26 CFR Part 301) to provide temporary rules relating to the definition of ministerial act for the purposes of abatement of interest under section 6404(e)(1) of the Internal Revenue Code of 1986. The temporary regulations reflect the addition of section 6404(e)(1) to the Code by section 1563(a) of the Tax Reform Act of 1986 (100 Stat. 2762).

Section 6404(e)(1) provides that the Commissioner may abate interest attributable to an error or delay by an officer or employee of the Internal Revenue Service (acting in an official capacity) in performing a ministerial act. The legislative history to section 6404(e)(1) provides that Congress "does not intend that this provision be used routinely to avoid payment of interest." S. Rep. No. 313, 99th Cong., 2d Sess. 208 (1986) (Senate Report). Rather, Congress intended the section to be used in instances in which an error or delay in performing a ministerial act results in the imposition of interest, and the failure to abate the interest "would be widely perceived as grossly unfair." Senate Report at 208.

The temporary regulations define the term "ministerial act" as a procedural or mechanical act that does not involve the exercise of judgment or discretion. A decision concerning the proper application of federal tax law (or other law) is not a ministerial act. A ministerial act is a procedural or mechanical act that is nondiscretionary and that occurs during the processing of a taxpayer's case after all the prerequisites to the act, such as conferences and review by supervisors, have taken place.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These

requirements have been approved by OMB.

Drafting Information

The principal author of these regulations is Sharon L. Hall of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matter of both substance and style.

List of Subjects

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Statistics, Taxes, Disclosure of information, Filing requirements.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act.

Adoption of Amendment to the Regulations

For the reasons set out in the preamble, Title 26, Chapter 1, Subchapter F, Part 301 and Subchapter H, Part 602 of the Code of Federal Regulations is amended as set forth below:

PART 301—[AMENDED]

Paragraph 1. The authority for Part 301 continues to read as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. The following new § 301.6404–2T shall be added in the appropriate place.

§ 301.6404–2T Definition of ministerial act (temporary).

(a) *In general.* Section 6404(e)(1) provides that the Commissioner may (in his or her discretion) abate the assessment of all or any part of interest on—

(1) Any deficiency (as defined in section 6211(a), relating to income, estate, gift, generation-skipping, and certain excise taxes) attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in an official capacity) in performing a ministerial act, or

(2) Any payment of any tax described in section 6212(a) (relating to income, estate, gift, generation-skipping, and certain excise taxes) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act. An error or delay in performing a ministerial act shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved or to a person related to the taxpayer within the meaning of section 267(b) or section 707(b)(1). Moreover, an error or delay in performing a ministerial act shall be taken into account only if it occurs after the Service has contacted the taxpayer in writing with respect to the deficiency or payment.

(b) *Ministerial act*—(1) *Definition.* The term "ministerial act" means a procedural or mechanical act that does not involve the exercise of judgment or discretion, and that occurs during the processing of a taxpayer's case after all prerequisites to the act, such as conferences and review by supervisors, have taken place. A decision concerning the proper application of federal tax law (or other federal or state law) is not a ministerial act.

(2) *Examples.* The definition of ministerial act may be illustrated by the following examples.

Example (1). A taxpayer moves from one state to another before the Internal Revenue Service selects the taxpayer's income tax return for examination. A letter explaining that the return has been selected for examination is sent to the taxpayer's old address and then forwarded to the new address. The taxpayer timely responds, asking that the audit be transferred to the Service's district office that is nearest the new address. The group manager approves the request. After the request for transfer has been approved, the transfer of the case is a ministerial act. The Commissioner may (in his or her discretion) abate interest attributable to a delay in transferring the case.

Example (2). An examination of a taxpayer's income tax return reveals a deficiency with respect to which a notice of deficiency will be issued. After the taxpayer and the Internal Revenue Service have identified all agreed and unagreed issues, the notice has been prepared and reviewed (including review by District Counsel, if necessary) and any other relevant prerequisites have been completed, the issuance of the notice of deficiency is a ministerial act. The Commissioner may (in his or her discretion) abate interest attributable to a delay in issuing the notice.

Example (3). A taxpayer invested in a tax shelter and reported a loss from the tax shelter on the taxpayer's income tax return. Internal Revenue Service personnel conducted an extensive examination of the tax shelter, and the processing of the taxpayer's case was delayed during such examination. Because the period of limitations on assessment was about to expire, the taxpayer executed a consent to extend the period of limitations. The time required to process the taxpayer's case was not a result of a delay in performing a ministerial act; consequently, interest attributable to this period cannot be abated under paragraph (a) of this section.

Example (4). A revenue agent is sent to a training course, and the agent's supervisor decides not to reassign the agent's cases. During the training course, no work is done on the cases assigned to the agent. Neither the decision to send the agent to the training course nor the decision not to reassign the agent's cases is, under the circumstances, a ministerial act. Thus, interest attributable to the delay cannot be abated.

Example (5). A taxpayer who claimed a loss from a tax shelter on the taxpayer's income tax return is notified that the Internal Revenue Service intends to examine the return. However, because of other work priorities and resource limitations, a decision is made not to commence the examination for an extended period thereafter. The decision not to commence the examination involves the exercise of judgment and discretion and is not a ministerial act; consequently, interest attributable to the period of delay cannot be abated.

(c) *Effective date.* The provisions of this section apply to interest accruing with respect to deficiencies or payments of tax described in section 6212(a) for taxable years beginning after December 31, 1978. If a refund or credit of interest attributable to the application of paragraph (a) of this section to a tax liability arising with respect to any such taxable year is prevented at any time on or before October 22, 1987, by the operation of any law or rule of law (including res judicata), refund or credit of such interest (to the extent attributable to the application of paragraph (a) of this section) may, nevertheless, be made or allowed if a claim for such interest is filed on or before October 22, 1987.

PART 602—[AMENDED]

Par. 3. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate places in the table § 301.6404–2T . . . 1545–0024."

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective

date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: July 30, 1987.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 87-18233 Filed 8-10-87; 1:57 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 87-09]

Regatta; Gateway Power Boat Regatta, Long Island Sound off Greenwich, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the annual Gateway Power Boat Regatta. This event, sponsored by the Gateway Power Boat Association, involves high speed power boats racing within a rectangular area on Long Island Sound, off Greenwich, Connecticut. This year the race is scheduled for Saturday, August 8, 1987. This regulation is needed to provide for the safety of participants, spectators and passers-by on navigable waters during this power boat event.

EFFECTIVE DATE: This regulation is effective on Saturday, August 8, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Luke Brown, (617) 223-8310.

SUPPLEMENTARY INFORMATION: On June 8, 1987, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** for this regulation (52 FR 21603). Interested persons were requested to submit comments and one comment was received. This regulation is being made effective in less than thirty days from the date of publication. There was not sufficient time remaining in advance of the event to provide for a delayed effective date.

Drafting Information

The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Commander R.A. Brunell, Project Attorney, First Coast Guard District Legal Office.

Discussion of Comments

One comment was received by telephone in response to the Notice of Proposed Rulemaking. Since the usual comment period was shortened, verbal comments submitted by phone were accepted in lieu of the normal requirement for the comments to be in writing. The commenter expressed concern about spectator recreational vessels which on occasion try to imitate the race boats while on their way to and from the race area. The permit for this marine event points out that the sponsor is responsible for the control of spectator craft in the area of the event. However, there is little the sponsor or anyone else can do to control every power boat travelling to the event from various locations. The existing Navigation Rules—International and Inland apply to these vessels and their operators are bound to adhere to them or be subject to citation and applicable penalties. Nevertheless, it will be suggested to the sponsor that safe operation of recreational vessels be promoted through any means available to them.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Early coordination with local marine interests has provided ample time for mariners to adjust plans and schedules so other activities would not be adversely affected by this event. The 1986 race drew an estimated 500 spectator craft to the area. A similar number this year should have a favorable impact on commercial facilities providing services to the spectators. The waters around the race course are used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible. The race course coordinates have been selected so that marine traffic would still be able to access Greenwich Cove, Captains Harbor and all other shore points adjacent to the race course. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 of Title 33 of the Code of Federal Regulations is amended by adding a temporary § 100.35-109 to read as follows:

§ 100.35-109 Gateway Power Boat Regatta, Long Island Sound off Greenwich, Connecticut.

(a) *Regulated area.* Long Island Sound, off Greenwich, Connecticut in the rectangular area described by the following points:

Latitude, 40 degrees, 57 minutes, 23 seconds North;
Longitude, 73 degrees, 38 minutes, 42 seconds West.
Latitude, 40 degrees, 56 minutes, 06 seconds North;
Longitude, 73 degrees, 38 minutes, 28 seconds West.
Latitude, 40 degrees, 57 minutes, 50 seconds North;
Longitude, 73 degrees, 33 minutes, 01.5 seconds West.
Latitude, 40 degrees, 59 minutes, 04 seconds North;
Longitude, 73 degrees, 35 minutes, 11 seconds West.

(b) *Effective period.* This regulation is effective from 9:30 a.m. to 3:30 p.m. on Saturday, August 8, 1987. In the event of postponement due to weather this regulation will be in effect during the same times on Sunday, August 9, 1987.

(c) *Special local regulations.* (1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) The regulated area will be closed to all spectator and general vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless authorized by the sponsor or the Coast Guard Patrol Commander.

(3) Race participants shall not exceed 10 mph when transiting between race headquarters and the regulated area.

(4) All spectator vessels shall remain at least 50 yards from the participants when they are transiting to or from the regulated area and race headquarters. The location designated for spectator vessels during the power boat race is an area north of a line parallel to and approximately 1000 yards south of a line connecting buoys N "2" (SW of Great Captain Island) and Bell "1" (SE of "Hen and Chickens"). This area will be adjusted at the discretion of the Coast Guard Patrol Commander.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(6) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for any owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 29, 1987.

R.L. Johanson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 87-18493 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-14-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1011, 1132, 1161, and 1162

[Ex Parte No. 469]

Commission Organization; Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts technical revisions to the regulations at 49 CFR Part 1011, *Commission Organization: Delegation of Authority*, that describe the organization of the Commission and the assignment of jurisdiction and responsibilities. The changes are ministerial in nature. Because they involve only the internal organization and procedures of the Commission, they are being issued in final form. Public comment is not requested or required. The two divisions described under § 1011.3 are eliminated, and all matters previously assigned to these divisions are now reserved to the Commission. The Commission retains the option of reestablishing the divisional structure at a future time. Also, because of these revisions, technical modifications or changes are made to several other sections of the Commission's regulations. Finally, changes are made to § 1132.2 to correct minor typographical errors and omissions and conforming amendments are made to Parts 1161 and 1162.

EFFECTIVE DATE: September 12, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew L. Lyon, (202) 275-7691

or

Mark Shaffer, (202) 275-7292, (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. Info-Systems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or pickup from TSI in Room 2229 at Commission headquarters.

Environmental and Energy Considerations

This rule will not significantly affect either the quality of the human environment or the conservation of energy resources

Regulatory Flexibility Analysis

The Commission certifies that this action will not have a significant economic impact on a substantial number of small business entities because the changes are ministerial only and do not impose additional requirements on any entity.

List of Subjects in 49 CFR Parts 1011, 1132, 1161, and 1162

Administrative practice and procedure, Authority delegations (government agencies).

Decided: August 3, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1011—COMMISSION ORGANIZATION: DELEGATIONS OF AUTHORITY

1. The authority citation for Part 1011 continues to read as follows:

Authority: 49 US.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Paragraphs (a)(4) and (b) of § 1011.2 are revised to read as follows:

§ 1011.2 The Commission.

(a) * * *

(4) All other matters submitted for decision except those assigned to a single Commissioner, an employee, or an employee board.

(b) The Commission may bring before it any matter assigned to a single Commissioner or any employee board. It may establish divisions and assign any matter reserved to it to a division for administrative handling or decision, or both.

3. Section 1011.3 is revised to read as follows:

§ 1011.3 Divisions of the Commission.

The Commission may establish such divisions as it considers necessary to handle any matter before it.

4. The heading of § 1011.6 is revised as follows:

§ 1011.6 Employee Boards.

5. The first sentence of the introductory text of § 1011.6 is revised to read as follows:

This section sets forth matters assigned to boards of employees of the Commission. * * *

* * * * *

6. Paragraphs (e) and (h) of § 1011.6 are removed and paragraphs (f), (g), (i), (j), and (k) are redesignated as paragraphs (e), (f), (g), (h), and (i).

PART 1132—PROTESTS AGAINST TARIFFS; PROCEDURES IN CERTAIN SUSPENSION AND LONG AND SHORT HAUL RESTRICTION MATTERS

7. The authority citation for Part 1132 continues to read as follows:

Authority: 49 U.S.C. 10321, 10707, 10708, and 10726; 5 U.S.C. 553 and 559.

8. Paragraph (b) of § 1132.2 is amended by adding introductory text and by revising the introductory text to paragraph (b)(1) to read as follows:

§ 1132.2 Procedures in certain suspension and long and short haul restriction matters.

* * * * *

(b) Petitions for reconsideration of the following may be filed by any interested person within 20 days after the date of service:

(1) Decisions by the Suspension Board which result in orders for:

* * * * *

§ 1132.2 [Amended]

9. Paragraphs (c) and (d) of § 1132.2 are amended by removing the words "by the designated appellate division" from paragraph (c), and by substituting the word "Commission" for "designated appellate division" in paragraph (d).

PART 1161—PROCEDURES FOR ISSUANCE OF CERTIFICATES OF REGISTRATION TO SINGLE-STATE MOTOR CARRIERS UNDER 49 U.S.C. 10931.

10. The authority citation for Part 1161 continues to read as follows:

Authority: 49 U.S.C. 10321, 10931; 5 U.S.C. 559.

§ 1161.5 [Amended]

11. The last two sentences of § 1161.5 are revised to read as follows:

* * * Applications for Certificates of Registration and related appeals will be handled in a single proceeding by the Commission. A decision issued by the Commission is final.

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

12. The authority citation for Part 1162 continues to read as follows:

Authority: 49 U.S.C. 10321, 10928; 5 U.S.C. 559.)

§ 1162.6 [Amended]

13. Section 1162.6(g)(2) is amended by removing the last sentence.

[FR Doc. 87-18450 Filed 8-12-87; 8:45 am]
BILING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 70102-7002]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of squid specification increase.

SUMMARY: NOAA issues this notice to increase the Initial Optimum Yield (IOY) specification for *Illex* squid as required by regulations governing the squid fisheries. This increase is assigned to the domestic annual harvest (DAH) and makes an additional 500 metric tons (mt) available for joint venture processing (JVP). Regulations governing the squid fisheries require publication of any specification adjustments, with reasons for such adjustments. This action is intended to foster the goal of the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) by creating benefits for the U.S. fishing industry.

DATES: This notice is effective August 10, 1987. Comments are invited until August 25, 1987.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600 ext. 273.

SUPPLEMENTARY INFORMATION: Under § 655.22, final initial annual specifications for squid for 1987 were published on January 7, 1987 (52 FR 537) for the fishery year of January 1 through December 31, 1987. The regulations at § 655.21(b)(1)(v) provide that these final initial annual specifications may be adjusted by the Director, NMFS Northeast Region, after consultation with the Mid-Atlantic Fishery Management Council.

The Council voted to recommend an additional 500 mt be allocated to JVP, because there is a lack of shoreside markets and there is currently a high concentration of *Illex* squid available to the U.S. harvesting sector. This increase in JVP provides an outlet for the U.S. harvesting sector not otherwise available.

Five joint ventures with companies from Japan (two), Italy, Spain and the Faroe Islands have approved permits. Each joint venture was initially granted 500 mt totaling 2,500 mt of the 3,000 mt total of *Illex* joint venture processing amount (JVP). The joint venture operations have been monitored and additional amounts of squid above the initial 2,500 mt JVP have been released as joint ventures have continued to perform. To date, the joint venture processing amount of 3,000 mt has been allocated.

One joint venture involving the Japanese company, Nippon Suisan and U.S. company, Lund Fisheries, was approved by both the New England and Mid-Atlantic Fishery Management Councils, to purchase "over the side" up to 1,500 mt of *Illex*. A permit was approved; however, the entire *Illex* amount of 1,500 mt was not released for the joint venture operation. This allows the Regional Director flexibility in reallocating squid, should the joint venture fail due to low abundance of squid.

The U.S.-Japanese joint venture operation has been monitored and discrete amounts of *Illex* have been released as *Illex* were harvested and processed above its initial 500 mt allocation. The joint venture is expected to continue to process U.S.-harvest squid, given the good abundance of *Illex* squid. Recent consultations with the Councils confirmed their original recommendation in support of the *Illex* 1,500 mt joint venture amount for this particular joint venture operation. Industry supports the increase, especially in view of *Illex* abundance and the need to process product.

In accordance with § 655.22(f) notice is hereby given that the IOY for *Illex* squid of 15,038 mt is increased by 500 mt to total 15,538 mt and DAH and JVP for *Illex* squid is increased by 500 mt from 3,000 to 3,500 mt.

Other Matters

This action is taken under 50 CFR Part 655 and is in compliance with Executive Order 12291.

In view of the need to avoid disruption of domestic and foreign fisheries, NOAA has determined that delaying the effective date of this notice is impractical, unnecessary, and contrary to the public interest.

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 10, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-18526 Filed 8-10-87; 4:58 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

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

Federal Grain Inspector Service

7 CFR Parts 800, 801 and 802

Grain Standards; Review of Regulations

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Request for Public Comment.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (Service) invites comments and suggested changes to its regulations under the United States Grain Standards Act.

DATE: Comments must be submitted on or before October 13, 1987.

ADDRESS: Written comments must be submitted to Lewis Lebakken Jr., Information Resources Staff, RM, USDA, FGIS, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC, 20250.

Telemail users may respond to [IRSTAFF/FGIS/USDA] telemail.

Telex users may respond as follows: to Lewis Lebakken Jr., TLX: 7607351, ANS: FGIS UC.

All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: The periodic review of regulations in 7 CFR Part 800, General Regulations; 7 CFR Part 801, Official Performance Requirements for Grain Inspection Equipment; and 7 CFR Part 802, Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems is being conducted in accordance with Executive Order 12291 and Departmental Regulation 1512–1.

During this review scheduled to be completed by October, 1988, the Service will be assessing such issues as the continued need for various sections of the regulations, potential for improvements, language clarity, and public burden. Comments are solicited from interested persons.

Dated: August 6, 1987.

W. Kirk Miller,

Administrator.

[FR Doc. 87–18469 Filed 8–12–87; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Parts 907 and 908

Navel Oranges and Valencia Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites written comments on a proposal to amend the procedures for imposing interest and late payment charges on handlers' overdue assessments, which are contained in the administrative rules and regulations of the California-Arizona navel and Valencia orange marketing orders. The proposed action was recommended by the Navel and Valencia Orange Administrative Committees in order to provide a more efficient and timely method of assessment collection.

DATE: Comments due September 14, 1987.

ADDRESS: Interested persons are invited to submit written comments concerning this notice. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, Room 2085, South Building, Washington, DC 20250–0200. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular working hours.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–0200, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended, and rules issues thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The Navel and Valencia Orange Administrative Committees (NOAC/VOAC), which are responsible for the local administration of the marketing orders, report that there are an estimated 4,065 growers and 123 handlers of navel oranges, and 3,500 growers and 115 handlers of Valencia oranges. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1 (1985)) as those having average annual gross revenues for the last three fiscal years of less than $100,000. Handlers are considered small entitles if gross annual revenues are less than $3.5 million. The majority of California-Arizona navel and Valencia orange growers and handlers may be classified as small entities.

Interest and late payment charges have been authorized under the marketing orders since January 1985. The NOAC and VOAC have recommended amendments to the respective rules and regulations issued under the marketing orders which would change the date when interest accrues and late payment charges apply to outstanding handler assessment accounts. The change for both programs is designed to encourage handlers to pay assessments more promptly, and to simplify the committees' recordkeeping and handler assessment billing procedures. There is no change in the current rate of interest charged to overdue assessments or to the one-time late payment charge.

Based on available information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

The proposed changes in the administrative rules and regulations concerning interest and late payment charges are issued under Marketing Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California and Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The orders are effective under the Act. The proposal is based upon the recommendation and information submitted by the NOAC and VOAC and upon other available information.

Sections 907.41 and 908.41 of the respective orders authorize the collection of interest and late payment charges from handlers on overdue assessments. Sections 907.106 and 908.106, which contain provisions for an interest charge and a late payment charge on late assessments, were added to the administrative rules and regulations of the respective orders on May 5, 1986 (51 FR 11421).

The rules currently provide that an interest charge of 1½ percent per month be levied on any assessment not received within 30 days of the date such assessment was invoiced to the handler. Also provided for is a one-time late payment charge of 5 percent which may be charged on any unpaid assessments, plus accrued interest, not received at the committee's office within 60 days of the date such assessment was first invoiced to the handler.

The proposed amendments to §§ 907.106 and 908.106 would change the date when interest accrues and late payment charges apply to outstanding handler assessment accounts. The amendments would apply interest charges at the end of the month the assessment is due and a late payment charge at the end of the following month, if an assessment is first invoiced prior to or on the 15th of the month. If the handler is first invoiced after the 15th of the month, interest would be charged if the assessment is not paid at the committees' office before the end of the following month and the late payment charge would apply the month after that. The proposed changes are designed to encourage handlers to pay their assessments more promptly and to simplify the committees' recordkeeping and handler assessment billing procedures.

List of Subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges, Navel, Valencia.

For the reasons set forth in the preamble, 7 CFR Parts 907 and 908 are proposed to be amended as follows:

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

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

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Subpart—Rules and Regulations

2. Section 907.106 is amended by revising paragraphs (a) and (b) to read as follows:

§ 907.106 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office before the end of the month in which such assessment was first invoiced to the handler; *Provided,* That if an assessment is first invoiced later than the 15th of the month, no interest shall be charged if such assessment is paid at the committee's office before the end of the month following the month in which the assessment was first invoiced to the handler.

(b) In addition to the interest charge specified in paragraph (a) of this section there shall be a late payment charge of 5 percent on any assessment plus accrued interest not received at the committee's office by the end of the month following the month in which the assessment was first invoiced to the handler: *Provided,* That if an assessment is first invoiced later than the 15th of the month, there will be no late payment charge if the assessment and accrued interest are paid at the committee's office before the end of the second month following the month in which the assessment was first invoiced to the handler.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Subpart—Rules and Regulations

3. Section 908.106 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 908.106 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office before the end of the month in which such assessment was first invoiced to the handler; *Provided,* That if an assessment is first invoiced later than the 15th of the month, no interest shall be charged if such assessment is paid at the committee's office before the end of the month following the month in which the assessment was first invoiced to the handler.

(b) In addition to the interest charge specified in paragraph (a) of this section there shall be a late payment charge of 5 percent on any assessment plus accrued interest not received at the committee's office by the end of the month following the month in which the assessment was first invoiced to the handler. *Provided,* That if an assessment is first invoiced later than the 15th of the month, there will be no late payment charge if the assessment and accrued interest are paid at the committee's office before the end of the second month following the month in which the assessment was first invoiced to the handler.

Dated: August 6, 1987.

Ronald L. Cioffi,

Director, Fruit and Vegetable Division.

[FR Doc. 87–18528 Filed 8–12–87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ASO–8]

Proposed Alteration of VOR Federal Airways; Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Federal Airways V–1, V–521 and V–579 in the Miami, FL, area. These changes are proposed in conjunction with the commissioning of the new Lee County very high frequency omni-directional radio range and tactical air navigational aid (VORTAC). These changes would improve traffic flow between Miami and the Orlando, FL, terminal areas. This action would improve flight planning, save fuel, and reduce controller workload.

DATES: Comments must be received on or before September 28, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 87-ASO-8, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factural basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASO-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a low altitude airway between Orlando, FL, and the new Lee County, FL, VORTAC located at coordinates lat. 26°31'46" N., long. 81°46'34" W. VOR Federal Airway V-1 would be extended from Jacksonville, FL, to Orlando, to Lee County. The proposal would designate controlled airspace in an area where aircraft are normally vectored. In conjunction with the commissioning of the Lee County VORTAC, the descriptions of V-521 and V-579 would be changed to complement the flow in that area. This action would permit more flexibility for maneuvering traffic between Miami, FL, and Orlando and reduce controller workload. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-521 [Amended]

By removing the words "From Miami, FL, via INT Miami 337° and Fort Myers, FL, 101° radials; Fort Myers; INT Fort Myers 022° and Lakeland, FL, 154° radials; Lakeland;" and substituting the words "From Lakeland, FL;"

V-579 [Amended]

By removing the works "From Ft. Myers, Fl, via INT Ft. Myers 311° and Sarasota, Fl, 156° radials;" and substituting the words "From Miami, FL, INT Miami 337°T(337°M) and Lee County, FL 099°T(101°M) radials; Lee County; Fort Myers, FL; INT Fort Myers 311°T(310°M) and Sarasota, Fl, 156°T(158°M) radials;"

V-1 [Amended]

By removing the words "From Jacksonville, FL, via" and substituting the words "From Lee County, FL, INT Lee County 009°T(011°M) and Orlando, FL, 194°T(194°M) radials; Orlando; Jacksonville, FL;"

Issued in Washington, DC, on August 5, 1987.

Shelomo Wugalter,

Acting Manger, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-18426 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Optional State Supplementation Provisions; Agreements; Payments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: We are proposing rules to provide nationwide implementation of the court's decision in *Livermore* v. *Heckler*, 743 F.2d 1396 (9th Cir. 1984). The issue in this case involves the method of calculating optional State supplementary payments in the Supplemental Security Income (SSI) program where spousal deeming is involved. The proposed rules set out a new method of calculating such payments which conforms to the decision of the court.

DATE: Comments must be received on or before October 13, 1987.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203 or delivered to 3–A–3 Operations 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: Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301–594–7460.

SUPPLEMENTARY INFORMATION: Section 1614(f)(1) of the Social Security Act (the Act) provides that, for purposes of determining eligibility for and the amount of Federal SSI benefits for an individual whose spouse is living with him or her in the same household but is not eligible for SSI benefits, the individual's income and resources shall be deemed to include the income and resources of the spouse. This is referred to as "spousal deeming". Current regulations (20 CFR 416.1163) provide that when calculating the Federal SSI benefit of an eligible individual living with an ineligible spouse, the eligible individual's income will be combined with that of the ineligible spouse (if the ineligible spouse's income is above a certain amount after allocations for any ineligible children) and substracted from the Federal benefit rate for a couple. When calculating the State supplementary payment, however, under current regulations (20 CFR 416.2025(b)) we subtract countable income in excess of the Federal benefit rate from one of the existing variations in optional State supplementary payment rates for an eligible individual. Our policy was the subject of litigation in *Livermore* v. *Heckler*, 743 F.2d 1396 (9th Cir. 1984), and *Bouchard* v. *Secretary*, C.A. No. 78–0632–F (D. Mass. 1984). In these cases, it was held that our method of calculating optional State supplementary payments involving spousal deeming was inconsistent with the Act. The courts held that the Secretary should calculate those payments by subtracting the excess countable income of these couples from an optional State supplementary payment rate for an eligible couple. We believe that the *Livermore* and *Bouchard* courts' interpretation of the Act, as requiring the application of the same type of rate (couple or individual) in Federal SSI determinations and federally administered optional State supplement determinations, is a reasonable one. Moreover, considering that 74 percent of the cases affected by the proposed regulation (State-supplement-only cases) are California and Massachusetts cases already subject to the *Livermore* and *Bouchard* decisions, we believe it is reasonable to extend the courts' interpretation to all those affected. Therefore, we propose to apply this policy nationally.

However, unlike Federal SSI benefits, most States have more than one supplementary payment rate for couples. State payment rates may vary by geographic area, living arrangement, and category, i.e., aged, blind, or disabled (20 CFR 416.2020 through 416.2030). Only four States, Massachusetts, California, Nevada, and Iowa, vary their supplementary payment rates by category. In Massachusetts, under the *Bouchard* ruling, the ineligible spouse is considered to be in the category that yields the lowest couple rate. In California, under the *Livermore* ruling, the ineligible spouse is considered to be in the same category as the eligible individual; i.e., if the eligible individual is disabled, the ineligible spouse will be considered disabled, and the rate for a disabled couple will be used. It is this policy that is being reflected in the proposed regulations. Although the Ninth Circuit's decision only required that the policy be effectuated in California, California cases comprise 88 percent of the State-supplement-only cases in the four States that vary their supplement by category, that is, 88 percent of those affected by a choice of which couple rate to apply. In order to assure a uniform policy, we are effectuating the *Livermore* policy nationwide.

If a State has, or in the future elects, a special individual rate for an eligible individual living with an ineligible spouse, for purposes of this regulation we will treat that rate as the couple rate provided that it is greater than the eligible couple rate otherwise applicable under these regulations.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because no Federal SSI program costs are involved and administrative costs would be negligible and resulting State costs are also negligible. In addition, Medicaid costs would be negligible. Therefore a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These proposed regulations impose no new reporting or recordkeeping requirements necessitating Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities since they affect primarily individuals receiving or applying for SSI benefits. Therefore, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program).

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: April 13, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: June 19, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows.

Subpart K—[Amended]

1. The authority citation for Subpart K of Part 416 is revised to read as follows and all other authority citations which appear throughout Subpart K are removed:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614, 1621, and 1631 of the Social Security Acts as amended; sec. 211 of Pub. L. 93–66; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, 1382j, and 1383.

2. Paragraph (d)(2)(iii) of § 416.1163 is revised to read as follows:

§ 416.1163 How we deem income to you from your ineligible spouse.

* * * * *

(d) *Determining your eligibility for SSI.*

(2) * * *

(iii) Subtracting the couple's countable income from the Federal benefit rate for an eligible couple. (See § 416.2025(b) for determination of the State supplementary payment amount.)

* * * *

Subpart T—[Amended]

3. The authority citation of Subpart T of Part 416 is revised to read as follows and all other authority citations which appear throughout Subpart T are removed:

Authority: Secs. 1102, 1612, 1614, 1616, 1618, 1631, and 1634 of the Social Security Act as amended; sec. 401 of Pub. L. 92–603, sec. 212 of Pub. L. 93–66, sec. 8 of Pub. L. 93–233, secs. 1 and 2 of Pub. L. 93–335, sec. 102 of Pub. L. 94–274; 42 U.S.C. 1302, 1382a, 1382c, 1382e, 1382g, 1383, 1383c, 1382 nt (7 U.S.C. 2012 nts).

4. Paragraphs (b)(1) and (3) of § 416.2025 are revised to read as follows:

§ 416.2025 Optional supplementation; Countable income.

* * * * *

(b) * * *

(1) As provided in § 416.420, countable income will first be deducted from the Federal benefit rate applicable to an eligible individual or eligible couple. In the case of an eligible individual living with an ineligible spouse with income (the deeming provisions of § 416.1163 apply), the Federal benefit rate from which countable income will be deducted is the Federal benefit rate applicable to an eligible couple, except that an eligible individual's payment amount may not exceed the amount he or she would have received if he or she were not subject to the deeming provisions (§ 416.1163(e)(2)).

* * * * *

(3) If countable income exceeds the amount of the Federal benefit rate, the State supplementary benefit will be reduced by the amount of such excess. In the case of an eligible individual living wih an ineligible spouse with income (the deeming methodology of § 416.1163 applies), the State supplementary payment rate from which the excess income will be deducted is the State supplementary rate for an eligible couple, except that an eligible individual's payment amount may not exceed the amount he or she would have received if he or she were not subject to the deeming provisions (see § 416.1163(e)(2)). For purposes of determining the State supplementary couple rate, the ineligible spouse is considered to be in the same category as the eligible individual. This rate will be used unless the State designates a special individual rate for an eligible individual living with an ineligible spouse. For purposes of this regulation, we will treat that special rate as the couple rate provided that it is greater than the eligible couple rate otherwise applicable under these regulations.

* * * * *

[FR Doc. 87–18311 Filed 8–12–87; 8:45 am]
BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 7

[Docket No. 87N–0082]

Infant Formula Recall Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing, in accordance with the 1986 Infant Formula amendments to the Federal Food, Drug, and Cosmetic Act, to amend its recall regulations for infant formulas. These proposed amendments would: (1) Specify mandatory recall procedures to be used by manufacturers in removing from the marketplace an infant formula that is adulterated and/or misbranded and that the agency has determined may present a risk to human health; (2) require a manufacturer recalling an infant formula that presents a risk to human health to request each retail establishment at which such infant formula is sold or available for sale to post a notice of such recall; and (3) establish infant formula distribution records retention requirements.

DATES: Written comments by October 13, 1987. The agency proposes that any final rule based on this proposal become effective 60 days after its date of publication.

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

FOR FURTHER INFORMATION CONTACT: Curtis E. Coker, Jr., Center for Food Safety and Applied Nutrition (HFF–314), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0024.

SUPPLEMENTARY INFORMATION: In 1978, a major manufacturer of infant formulas reformulated two of its soy products by discontinuing the addition of salt. This reformulation resulted in the manufacture of products containing an inadequate amount of chloride, an essential nutrient. By mid-1979, hypochloremic metabolic alkalosis, a syndrome associated with chloride deficiency, had been diagnosed in a substantial number of infants. Most of the cases resulted from prolonged and exclusive use of these brands of the soy infant formulas. A recall was instituted for those defective infant formulas. However, the recall did not result in the prompt removal of all the chloride deficient formula from many retailers and some wholesalers.

After reviewing the matter, Congress determined that, to improve protection of infants using infant formula products, modifications of industry's and FDA's recall procedures were needed, as well as greater regulatory control over the formulation and production of infant formulas. Accordingly, Congress passed, and the President signed into law on September 26, 1980, the Infant Formula Act of 1980 (Pub. L. 96–359). The Infant Formula Act of 1980 (the 1980 act) is codified in section 412 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350a). In 1982, FDA implemented the infant formula recall procedures, as prescribed for in section 412(d) of the act, by establishing Subpart D in 21 CFR Part 7 (see 47 FR 18832; April 30, 1982).

More recently, Congress amended section 412 of the 1980 act as a provision of the "Drug Enforcement, Education, and Control Act of 1986" (Pub. L. 99–570). The President signed these amendments into law on October 27, 1986. The Drug Enforcement, Education, and Control Act of 1986 (the 1986 amendments) makes certain changes affecting infant formula recalls that require amendments to FDA's existing recall regulations. The agency is proposing to amend its recall regulations to reflect the statutory changes. A brief discussion of the proposed amendments follows.

Infant Formula Recall Requirements, Scope and Effect of Infant Formula Recalls, and Notification Requirements

Section 412(c)(1) of the 1980 act required only that an infant formula manufacturer notify the Secretary promptly of noncompliance or risk to health where the manufacturer had knowledge that one of its products had been distributed which failed to contain the required nutrients or levels of nutrients, or which was otherwise adulterated or misbranded and presented a human health risk. The 1986 amendments revised section 412(c)(1) (recodified as section 412(e)(1)) to

require manufacturers not only to notify the Secretary under such circumstances but also, when the agency has determined that the infant formula presents a risk to human health, to immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments.

FDA is therefore proposing to amend 21 CFR Part 7 by revising § 7.70 (scope and effect of infant formula recalls) and § 7.72 (reports about an infant formula recall; proposed in this document under the section heading "notification requirements"). The agency is also proposing to add new § 7.68 concerning food and Drug Administration-required recalls. This section would incorporate the new statutory requirements concerning such mandatory recalls. FDA is also proposing to add new § 7.69 to define a "firm-initiated recall," thereby distinguishing such a recall from one based on the agency's determination that an infant formula presents a risk to health (new § 7.68). As revised, new § 7.69 would apply to an infant formula that has been distributed, that does not present a human health risk, but that is otherwise in violation of the laws and regulations administered by FDA and against which the agency could initiate legal or regulatory action.

Posting Notice of an Infant Formula Recall

Section 412(f)(3) of the 1986 amendments imposes the requirement that a manufacturer recalling an infant formula that presents a human health risk must request each retail establishment at which such infant formula is sold or available for sale to post a notice of such recall. FDA has incorporated this new requirement into the proposed regulations in § 7.71 (elements of an infant formula recall) and § 7.72 (notification requirements).

Records Retention

Section 412(g)(1) of the 1986 amendments revises the language of section 412(e)(1) of the 1980 act by requiring manufacturers to keep all distribution records for at least 1 year after expiration of the shelf life of the infant formula. FDA is proposing to add new § 7.76 (records retention) to incorporate this new requirement.

Proposed Minor Changes

FDA is proposing a number of minor editorial changes, including redesignating the "Bureau of Foods" as the "Center for Food Safety and Applied Nutrition" to reflect an FDA reorganization.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354) and Executive Order 12291, the economic effects of this proposed rule have been analyzed. This proposed rule merely implements nondiscretionary requirements of the 1986 amendments. For that reason, this proposed rule will not generate any costs beyond those generated by the 1980 amendments.

Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action. Further, in accordance with Executive Order 12291, FDA certifies that this proposed rule will not result in a major rule as defined by that order.

Paperwork Reduction Act of 1980

Section 7.76 of this proposed rule contains collection of information requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these collection of information requirements. Other organizations and individuals desiring to submit comments on the collection of information requirements should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3002, New Executive Office Bldg., Washington, DC 20503, Attn: Shannah Koss.

Comments

Interested persons may, on or before October 13, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 7

Administrative practice and procedure, Consumer protection, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR Part 7 be amended by revising Subpart D to read as follows:

PART 7—ENFORCEMENT POLICIES

Subpart D—Infant Formula Recalls

Sec.

7.68 Food and Drug Administration-required recall.
7.69 Firm-initiated recall.
7.70 Scope and effect of infant formula recalls.
7.71 Elements of an infant formula recall.
7.72 Notification requirements.
7.73 Termination of an infant formula recall.
7.74 Revision of an infant formula recall.
7.75 Compliance with this subpart.
7.76 Records retention.

Authority: Secs. 412, 701(a), 52 Stat. 1055, 94 Stat. 1190–1192 (21 U.S.C. 350a, 371(a)); 21 CFR 5.10.

Subpart D—Infant Formula Recalls

§ 7.68 Food and Drug Administration-required recall.

The Food and Drug Administration shall require a manufacturer to immediately take all actions necessary to recall a violative infant formula that presents a risk to human health, extending to and including the retail level, consistent with the requirements of this section and all other applicable provisions of Part 7, as well as any guidelines issued by the Food and Drug Administration applicable to food recalls.

§ 7.69 Firm-initiated recall.

If a manufacturer has determined to voluntarily remove from the market an infant formula that is not subject to § 7.68 but which otherwise violates the laws and regulations administered by the Food and Drug Administration, the manufacturer, upon prompt notification to the Food and Drug Administration, shall administer such voluntary recall consistent with the requirements of this section and all other applicable provisions of Part 7, as well as any guidelines issued by the Food and Drug Administration applicable to food recalls.

§ 7.70 Scope and effect of infant formula recalls.

(a) The criteria in this subpart apply to a recall of an infant formula required by the Food and Drug Administration or

initiated by a manufacturer under section 412 (e) or (f) of the act, respectively. The requirements of this subpart apply:

(1) When the Food and Drug Administration has determined that it is necessary to remove from the market a distributed infant formula which poces a risk to human health; or

(2) When a manufacturer has determined that it is necessary to remove from the market a distributed infant formula that:

(i) Is no longer subject to the manufacturer's control;

(ii) Is in violation of the laws and regulations administered by the Food and Drug Administration and against which the agency could initiate legal or regulatory action; and

(iii) Does not present a human health risk.

(b) The Food and Drug Administration will monitor continually the recall action and will take appropriate actions to ensure that the violative infant formula is removed from the market.

(c) The failure of a recalling firm to comply with the regulations of this subpart is a prohibited act under section 301(s) of the act.

§ 7.71 Elements of an infant formula recall.

A recalling firm shall conduct an infant formula recall with the following elements:

(a) The recalling firm shall evaluate in writing the hazard to human health associated with the use of the infant formula. This health hazard evaluation shall include consideration of any disease, injury, or other adverse physiological effect that has been or that could be caused by the infant formula and of the seriousness, likelihood, and consequences of the disease, injury, or other adverse physiological effect. The Food and Drug Administration will conduct its own health hazard evaluation and promptly notify the recalling firm of the results of that evaluation if the criteria for an agency-required recall have been met.

(b) The recalling firm shall devise a written recall strategy suited to the individual circumstances of the particular recall. The recall strategy shall take into account the health hazard evaluation and specify the following: The extent of the recall; if necessary, the public warning to be given about any hazard presented by the infant formula; the disposition of the recalled infant formula; and the effectiveness checks that will be made to determine that the recall is carried out.

(c) The recalling firm shall promptly notify each of its affected direct accounts about the recall. The format of a recall communication shall be distinctive and the content and extent of a recall communication shall be commensurate with the hazard of the infant formula being recalled and the strategy developed for the recall. The recall communication shall instruct consignees to report back quickly to the recalling firm about whether they are in possession of the recalled infant formula and shall include a means of doing so. The recall communication shall also advise consignees of how to return the recalled infant formula to the manufacturer or otherwise dispose of it. The recalling firm shall send a followup recall communication to any consignee that does not respond to the initial recall communication.

(d) If the infant formula presents a risk to human health, the Food and Drug Administration will require that the recalling firm request each retail establishment, at which such infant formula is sold or available for sale, post at the point of purchase of such formula a notice of such recall at such establishment provided by the recalling firm after approval by the Food and Drug Administration. The Food and Drug Administration will also require that the recalling firm request each retail establishment to maintain such notice on display until such time as the agency notifies the recalling firm that it considers the recall completed.

(e) The recalling firm shall furnish promptly to the appropriate Food and Drug Administration district office listed in § 5.115 of this chapter, as they are available, copies of the health hazard evaluation, the recall strategy, and all recall communications (including, for a Food and Drug Administration-required recall, the notice to be displayed at retail) directed to consignees, distributors, retailers, and members of the public.

§ 7.72 Notification requirements.

(a) *Notification of a violative infant formula.* The manufacturer shall promptly notify the Food and Drug Administration when the manufacturer has knowledge (as defined in section 412(e)(2) of the act) that reasonably supports the conclusion that an infant formula that has been processed by the manufacturer and that has left an establishment subject to the control of the manufacturer may not provide the nutrients required by section 412(i) of the act and by regulations promulgated under section 412(i)(2) of the act, or when there is an infant formula that is otherwise adulterated or misbranded. This notification shall be made, by telephone, to the Director of the appropriate Food and Drug Administration district office specified in § 5.115 of this chapter. After normal business hours (8 a.m. to 4:30 p.m.), FDA's emergency number, 202–857–8400, shall be used. The manufacturer shall send a followup written confirmation to the Division of Regulatory Guidance (HFF–310), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and to the appropriate Food and Drug Administration district office specified in § 5.115 of this chapter.

(b) *Reports about an infant formula recall*—(1) *Telephone report.* When a determination is made that an infant formula is to be recalled, the recalling firm shall telephone within 24 hours the appropriate Food and Drug Administration district office listed in § 5.115 of this chapter and shall provide relevant information about the infant formula that is to be recalled.

(2) *Initial written report.* Within 14 days after the recall has begun, the recalling firm shall provide a written report to the appropriate Food and Drug Administration district office. The report shall contain relevant information, including the following cumulative information concerning the infant formula that is being recalled:

(i) Number of consignees notified of the recall, and date and method of notification, including, for a Food and Drug Administration-required recall, information about the display notice provided for retail display and the request for its being displayed.

(ii) Number of consignees responding to the recall communication and quantity of recalled infant formula on hand at the time it was received.

(iii) Quantity of recalled infant formula returned or corrected by each consignee contacted and the quantity of recalled infant formula accounted for.

(iv) Number of results of effectiveness checks that were made.

(v) Estimated time frames for completion of the recall.

(3) *Status reports.* The recalling firm shall submit to the appropriate Food and Drug Administration district office a written status report on the recall at least every 14 days until the recall is terminated. The status report shall describe the steps taken by the recalling firm to carry out the recall since the last report and the results of these steps.

§ 7.73 Termination of an infant formula recall.

The recalling firm may submit a recommendation for termination of the recall to the appropriate Food and Drug Administration district office listed in

§ 5.115 of this chapter for transmittal to the Division of Regulatory Guidance, Center for Food Safety and Applied Nutrition, for action. Any such recommendation shall contain information supporting a conclusion that the recall strategy has been effective. The agency will respond within 15 days of receipt by the Division of Regulatory Guidance, Center for Food Safety and Applied Nutrition, of the request for termination. The recalling firm shall continue to implement the recall strategy until it receives final written notification from the agency that the recall has been terminated. The agency will send such a notification unless it has information, from FDA's own audits or from other sources, demonstrating that the recall has not been effective. The agency may conclude that a recall has not been effective if:

(a) The recalling firm's distributors have failed to retrieve the recalled infant formula.

(b) Stocks of the recalled infant formula remain in distribution channels that are not in direct control of the recalling firm.

§ 7.74 Revision of an infant formula recall.

If after a review of the recalling firm's recall strategy or periodic reports or other monitoring of the recall, the Food and Drug Administration concludes that the actions of the recalling firm are deficient, the agency shall notify the recalling firm of any serious deficiency. The agency may require the firm to:

(a) Change the extent of the recall, if the agency concludes on the basis of available data that the depth of the recall is not adequate in light of the risk to human health presented by the infant formula.

(b) Carry out additional effectiveness checks, if the agency's audits, or other information, demonstrate that the recall has not been effective.

(c) Issue additional notifications to the firm's direct accounts, if the agency's audits, or other information, demonstrate that the original notifications were not received, or were disregarded, in a significant number of cases.

§ 7.75 Compliance with this subpart.

A recalling firm may satisfy the requirements of this subpart by any means reasonably calculated to meet the obligations set forth in this Subpart D. The recall guidelines in Subpart C of Part 7 specify procedures that may be useful to a recalling firm in determining how to comply with these regulations.

§ 7.76 Records retention.

Each manufacturer of an infant formula shall make and retain such records respecting the distribution of the infant formula through any establishment owned or operated by such manufacturer as may be necessary to effect and monitor recalls of the formula. Such records shall be retained for at least 1 year after the expiration of the shelf life of the infant formula.

Dated: June 12, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-18441 Filed 8-12-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex) Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of intent.

SUMMARY: This notice of intent is issued by the Administrator of the Drug Enforcement Administration (DEA) in order to temporarily place 2-amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex) into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding that the scheduling of 4-methylaminorex is necessary to avoid an imminent hazard to the public safety. When this action is finalized, the regulatory controls and criminal sanctions of a Schedule I substance under the CSA will be applicable to the manufacture, distribution and possession of 4-methylaminorex.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 (Pub. L. 98-473) which was signed into law on October 12, 1984, amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be scheduled under the emergency provisions of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (28 CFR 0.100).

House Report 98-835 which accompanied Pub. L. 98-473 states that "This new procedure [emergency scheduling] is intended by the Committee to apply to what has been called 'designer drugs,' new chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant or depressant effect and have a high potential for abuse." 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex) is a new substance that is clandestinely produced, that is distributed in the illicit traffic, and that produces stimulant effects. This drug, 4-methylaminorex, is certainly the type of drug which Congress intended to be considered for emergency scheduling.

The pharmacological profile of 4-methylaminorex closely resembles that of amphetamine. 4-methylaminorex has been described as "a potent central nervous system stimulant." Its spectrum of pharmacological actions is similar in several respects to that produced by amphetamine. In particular, it has been determined that 4-methylaminorex (5mg/kg i.v. in dogs) produces substantial increases in mean blood pressure by way of sympathomimetic actions. Following doses of 1-2 mg/kg to dogs, 4-methylaminorex produces signs of restlessness, alertness, dilated pupils, and increases in coordinated motor activity. Higher doses elicit stereotyped behavior (repetitive motor movements), followed by seizures, loss of consciousness, respiratory depression and death. Amphetamine produces a similar pattern of behavioral changes in the dog. In other experimental studies, it has been reported that cross tolerance develops between 4-methylaminorex and amphetamine with respect to pressor actions. Furthermore the researchers noted that, like amphetamine, 4-methylaminorex produces these pressor actions indirectly by way of released catecholamines.

Experimental studies of the anorectic actions of 4-methylaminorex have shown that it potently suppresses appetite in rats in a manner similar to amphetamine. It was noted that "Of the 10 drugs tested 4 were very potent: d-amphetamine, methamphetamine, and two oxazolines, . . . McN-742 . . . and

[4-methylaminorex]. . . ." Moreover, ". . . at effective dose levels, all of the anorexigens display a similar degree of central nervous system stimulation."

Based on the data presently available, 4-methylaminorex appears to have a toxicity associated with its actions in producing central nervous system stimulation. With increasing dosage, 4-methylaminorex produces an overstimulation of the central nervous system that leads to stereotyped motor activity, seizure activity in the brain and associated convulsions, depression, respiratory failure, and death. It should be noted that a recent death has been attributed to the abuse of 4-methylaminorex. Analyses indicated the presence of high levels of 4-methylaminorex in the blood (21.3 mg/L) and urine (12.3 mg/L) of the victim. Commentary from researchers studying 4-methylaminorex has previously stressed that it has a narrow margin of safety in the dog and thus should be tested very cautiously in humans. Review of these pharmacological studies, then, indicates that 4-methylaminorex is a potent amphetamine-like stimulant with a low margin of safety.

DEA has received two reports of clandestine laboratories being seized following synthesis of considerable quantities of 4-methylaminorex. A number of samples of clandestinely manufactured 4-methylaminorex obtained from Florida and California have been positively identified by DEA chemists. DEA is not aware of any commercial manufacturers or suppliers of this compound, nor any approved therapeutic use.

In making a finding of an imminent hazard to the public safety, the Administrator, as delegated by Attorney General, is required to consider only those factors set forth in paragraphs (4), (5) and (6) of section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are as follows:

(4) The history and current pattern of abuse,

(5) The scope, duration and significance of abuse, and

(6) What, if any, risk there is to the public health.

Based on a consideration of these three factors along with the potent stimulant and toxic actions of the substance, and the lack of accepted medical use or established safety for the use of 4-methylaminorex, the Administrator, pursuant to section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, finds that scheduling 4-methylaminorex in Schedule I of the CSA, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety.

The Administrator has transmitted notice of his intention to temporarily place 4-methylaminorex into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. Comments submitted by the Assistant Secretary for Health in response to the notification, including whether there is an exemption or approval in effect for 4-methylaminorex under the Federal Food, Drug, and Cosmetic Act, shall be taken into consideration by the Administrator before a final order is published. Because the Administrator has found that it is necessary to temporarily place 4-methylaminorex into Schedule I to avoid an imminent hazard to the public safety, the final order, if issued, will be effective on the date of publication in the **Federal Register**. Further it is the intention of the Administrator to issue such a final order as soon as possible after the expiration of thirty days from the date of publication of this proposal and the date that a notification has been transmitted to the Assistant Secretary for Health.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the temporary placement of 4-methylaminorex into Schedule I of the CSA, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

It has been determined that the temporary placement of 4-methylaminorex in Schedule I of the CSA under the emergency scheduling provision is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811 (h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR Part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b)

2. Paragraph (g)(6) is added to § 1308.11 to read as follows:

§ 1308.11 Schedule I

* * * * *

(g) * * *

(6) 2-amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex) . . . 1590

Dated: August 6, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–18344 Filed 8–12–87; 8:45 am]

BILLING CODE 4410-09-M

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21 CFR Part 1308

Schedules of Controlled Substances Temporary Placement of N-ethyl MDA and N-hydroxy MDA Into Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Intent.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this notice of intent to temporarily place N-hydroxy MDA and N-ethyl MDA into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provision of the CSA (21 U.S.C. 801 et seq.). This action is based on a finding by the DEA Administrator that the scheduling of N-hydroxy MDA and N-ethyl MDA in Schedule I is necessary to avoid an imminent hazard to the public safety. Finalization of this action will impose the criminal sanctions and regulatory controls of Schedule I on the manufacturing, distribution and possession of N-hydroxy MDA and N-ethyl MDA.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which was signed into law on October 12, 1984, amended section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be scheduled under the emergency provision of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval

or exemption in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (28 CFR 0.100). In making a finding of an imminent hazard to the public safety, the Administrator is required to consider only those factors set forth in paragraphs (4), (5) and (6) of section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are as follows:

(4) Their history and current pattern of abuse

(5) The scope, duration and significance of abuse, and

(6) What, if any, risk there is to the public health.

House Report 98–835 which accompanied Pub. L. 98–473 states that "This new procedure [emergency scheduling] is intended by the Committee to apply to what has been called 'designer drugs', new chemical analogs or variations of existing controlled substances, or other new substances, which have a psychedelic, stimulant or depressant effect and have a high potential for abuse." N-hydroxy MDA and N-ethyl MDA are analogs of MDA and MDMA, Schedule I hallucinogens/stimulants, and as such are the type of substances which Congress intended to be considered for emergency scheduling.

N-ethyl MDA and N-hydroxy MDA are the most recent in a series of methylenedioxyamphetamines produced in clandestine laboratories for distribution and abuse in the United States. The parent compound in this class, 3,4-methylenedioxyamphetamine (MDA) has been controlled in Schedule I of the CSA since its passage in 1970. More recently 3,4-methylenedioxy-methamphetamine (MDMA), because of widespread abuse and studies showing that it is a neurotoxin in rodents, was placed into Schedule I pursuant to the emergency scheduling provision of the CSA effective July 1, 1985 (50 FR 23118). MDMA has since been placed into Schedule I of the CSA pursuant to the scheduling provisions of 21 U.S.C. 811 (a) and (b) effective November 13, 1986 (51 FR 36552). Since the control of MDMA, N-ethyl MDA and N-hydroxy MDA have been identified in the illicit drug traffic in several areas of the United States.

N-ethyl MDA, also known as MDE or MDEA, is *N*-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine. It is usually found as the hydrochloride salt in powder, tablet or capsule forms. N-ethyl MDA is sold on the street as "Eve." N-hydroxy MDA, also known as N-OHMDA, is *N*-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine. It is also usually found as the hydrochloride salt in powder, tablet or capsule forms. Both N-ethyl MDA and N-hydroxy MDA are structural analogs of MDA and MDMA.

N-ethyl MDA and N-hydroxy MDA behave as central nervous system stimulants in animals and as psychotomimetic substances in man. Available scientific data show that these substances produce pharmacological effects in common with MDA and MDMA. All four substances produce centrally mediated analgesic effects in the mouse as measured in several different tests. Both N-ethyl MDA (20 mg/kg) and N-hydroxy MDA (100 mg/kg) produce an increase in spontaneous locomotor activity in the mouse which is indicative of central nervous system stimulation. During the first three hours after administration, N-ethyl MDA increases spontaneous locomotor activity three times as much as MDA. Preliminary data from drug discrimination tests in rats show that although N-hydroxy MDA is not recognized as either amphetamine or DOM by appropriately trained animals it is recognized as MDMA in rats trained to discriminate MDMA from saline. Preliminary data also indicate that baboons trained to self-administer cocaine also self-administer N-ethyl MDA when it is substituted for cocaine. Similar reinforcing properties are observed for MDA, MDMA and other abusable central nervous system stimulants.

In man, N-ethyl MDA at oral doses of 140–200 mg, and N-hydroxy MDA at oral doses of 80–120 mg, produce psychotomimetic effects. The scientific literature indicates that MDA, MDMA, N-ethyl MDA and N-hydroxy MDA produce a very similar spectrum of psychopharmacological effects in humans. They produce a change in consciousness, an increase in acoustic, visual and tactile sensory perceptions, mood changes and a drive-increasing effect. Effects appear about 30 minutes after ingestion and last for several hours.

N-ethyl MDA and N-hydroxy MDA have been identified by forensic laboratories in drug evidence submissions from many sections of the country. N-ethyl MDA was found infrequently in drug evidence from 1978 to 1982. With the control of MDMA in Schedule I of the CSA, N-ethyl MDA has been identified with increasing frequency by forensic laboratories. At the same time, N-hydroxy MDA began to show up in forensic drug evidence. Much of the activity with these substances has occurred in the Southwest and Midwestern states. MDA analogs have been openly promoted as safe and legal through flyers. N-ethyl MDA has been sold as "Eve" in bars and shops in Texas. DEA has identified several clandestine laboratories which have produced or are capable of producing N-ethyl MDA and N-hydroxy MDA.

The use of MDA and its analogs has been associated with adverse effects on the public health and safety. N-ethyl MDA has been found in the blood of several individuals who were stopped by police for speeding, driving while intoxicated or involvement in accidents. Emergency room personnel have reported the admission of several individuals who had used N-ethyl MDA as determined by toxicological analyses. Reasons for admission range from bizarre behavior to loss of consciousness. Two deaths in Texas have also been associated with the use of N-ethyl MDA. Although as yet there have been no specific reports of injuries or deaths associated with the use of N-hydroxy MDA, its similar pharmacology makes it very likely that similar adverse effects will be reported. Another concern arising from the use of N-ethyl MDA and N-hydroxy MDA is their possible neurotoxicity. It has been well documented that both MDA and MDMA destroy serotonergic nerve terminals and, in some cases, nerve cells in the brains of laboratory animals. Neither N-ethyl MDA nor N-hydroxy MDA have undergone toxicity testing. Their similar chemical structures and pharmacological profiles to those of MDA and MDMA and their possible metabolism by N-dealkylation or decomposition of MDA, however, suggest a cause for serious concern regarding their possible neurotoxicity.

The above data show that the clandestine production, distribution and use of analogs of MDA, currently in the form of N-ethyl MDA and N-hydroxy MDA, pose a serious hazard to the public safety. DEA is unaware of any commercial manufacturer or supplier of N-ethyl MDA or N-hydroxy MDA or of any recognized therapeutic use of either of these substances.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, the Administrator of DEA has considered the following factors relative to making a determination of whether N-ethyl MDA and N-hydroxy MDA pose an imminent hazard to the public safety:

(1) Their history and current pattern of abuse,

(2) The scope, duration and significance of abuse, and

(3) What, if any, risk there is to the public health.

Based on a consideration of these factors and other relevant information, the Administrator, pursuant to section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100, finds that scheduling N-ethyl MDA and N-hydroxy MDA in Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

As required by section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)), the Administrator has notified the Assistant Secretary for Health, delegate of the Secretary of the Department of Health and Human Services of his intention to temporarily place N-ethyl MDA and N-hydroxy MDA into Schedule I of the CSA. Comments submitted by the Assistant Secretary in response to this notification, including whether there is an exemption or approval in effect for N-ethyl MDA or N-hydroxy MDA under the Federal Food, Drug and Cosmetic Act, shall be taken into consideration by the Administrator before a final order is published. Because the Administrator has found that it is necessary to temporarily place N-ethyl MDA and N-hydroxy MDA into Schedule I to avoid an imminent hazard to the public safety, the final order, if issued, will be effective on the date of publication in the **Federal Register.** Further, it is the intention of the Administrator to issue such a final order as soon as possible after the expiration of thirty days from the date of publication of this proposal and the date that a notification has been transmitted to the Assistant Secretary for Health.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the temporary placement of N-ethyl MDA and N-hydroxy MDA into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the temporary control of substances with no legitimate medical use or manufacture in the United States.

It has been determined that the temporary placement of N-ethyl MDA and N-hydroxy MDA in Schedule I of the CSA under the emergency scheduling provision is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR Part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Paragraphs (g)(4) and (g)(5) are added to § 1308.11 to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(4) *N*-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine (N-ethyl MDA, 3,4-methylenedioxyethylamphetamine, MDE, MDEA)—7404

(5) *N*-hydroxy-alpha-methyl-3,4,-(methylenedioxy)phenethylamine (N-hydroxy MDA)—7402

Dated: August 6, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–18345 Filed 8–12–87; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 301

[LR–34–87]

Abatement of Interest; Definition of Ministerial Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register,** the Internal Revenue Service is issuing temporary amendments to the procedure and administration regulations relating to the definition of ministerial act for purposes of abatement of interest. Changes to the law were made by the Tax Reform Act of 1986. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: The regulations contained in this document are proposed to be effective for interest accruing with respect to deficiencies and payments for taxable years beginning after December 31, 1978. Written comments and requests for a public hearing must be delivered or mailed by October 13, 1987.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–34–87), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Sharon L. Hall of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202–566–3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a T following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 301 of Title 26 of the Code of Federal Regulations. These amendments reflect the provisions of section 6404(e)(1) of the Internal Revenue Code of 1986 as added by section 1563(a) of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2762). For the text of the temporary regulations, see FR Doc. (T.D. 8150) published in the Rules and Regulations portion of this issue of the **Federal Register.** A general discussion of the temporary regulations is contained in the preamble to the regulations. The final regulations, which this document proposes to base on the temporary regulations, would amend Part 301 of Title 26 of the Code of Federal Regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer

for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Comments and Requests for a Public Hearing

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

Drafting Information

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

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Statistics, Taxes, Disclosure of information, Filing requirements.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-18234 Filed 8-10-87; 1:58 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Temporary Program of Vocational Training for Certain New Pension Recipients

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration (VA) is publishing for public comment proposed regulations to implement the provisions of the Veterans' Benefits Improvement Act of 1984, Pub. L. 98-543. Title III, section 301 of the Act establishes a temporary program under 38 U.S.C. chapter 15, section 524, to provide vocational training and other services to veterans in receipt of VA pension for nonservice-connected disability. The purpose of the program is to test whether veterans eligible for VA pension can, through vocational training and other services, achieve an income from work sufficient to provide a level of economic independence which would not require the receipt of the VA pension. This temporary program will be in effect from February 1, 1985, through January 31, 1989. A report on the program must be prepared and submitted to Congress by Arpil 15, 1988.

DATES: Comments must be received on or before September 10, 1987. Comments will be on public inspection until September 24, 1987. It is proposed to make these regulations retroactively effective February 1, 1985, the date on which the provision of law on which these regulations are based became effective.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Morris Triestman, (202) 233-2886.

SUPPLEMENTARY INFORMATION: This temporary program is limited to a maximum of 2,500 of the veterans who are awarded pension in any 12 month period beginning on and after February 1, 1985, through January 31, 1989. A determination of the feasibility of training and employment for the veteran is required for veterans under age 50 and may be requested by veterans age 50 and older. If training and employment are found reasonably feasible for the veteran he or she will be offered an opportunity to pursue a vocational training program similar in nature to the program provided the service-disabled veteran under chapter 31. The VA will pay for the training and other services in a manner similar to the manner in which they are provided under 38 U.S.C. chapter 31, with certain exceptions, but the veteran is not eligible for a loan, automobile adaptive equipment or a monthly subsistence allowance. The duration of training provided is 24 months with an extension of up to 24 months in certain circumstances. The recipient of these benefits under this temporary program for nonservice-disabled veterans is not, however, to be considered as being a participant in the vocational rehabilitation program for service-disabled veterans under 38 U.S.C. chapter 31.

The regulations contained herein will better acquaint eligible veterans, vocational training and rehabilitation facilities, and the public at large with the way these provisions will be implemented.

The VA proposes to make these regulations retroactively effective to February 1, 1985; these are interpretive rules which implement and construe the meaning of 38 U.S.C. 524 as added by Pub. L. 98-543. Moreover, the VA finds that good cause exists for making these regulations, like the section of law they implement, retroactively effective to February 1, 1985. To achieve the maximum benefit of this legislation for the affected individuals it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

These proposed regulations do not meet the criteria for major rules as contained in Executive Order 12291. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effect on the economy.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the proposed regulations simply implement and interpret statutory provisions. They concern the eligibility and participation of individual veterans under this program. By law, not more than 2,500 veterans per year can be provided evaluations under this program. No new regulatory burdens are imposed on small entities by these changes.

(The Catalog of Federal Domestic Assistance Number is 64.116)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan Programs, Reporting requirements, Schools, Veterans,

Vocational education, Vocational rehabilitation.

Approved: August 4, 1987.

Thomas K. Turnage,

Administrator.

Subpart I (§§ 21.6501 through 21.6525) is redesignated as Subpart J and a new Subpart I, Temporary Vocational Training Program, is added to 38 CFR, Part 21, Vocational Rehabilitation and Education, to read as set forth below:

Note: The Table of Contents includes regulations governing the determination of eligibility, and the services which may be provided to veterans under this program. The numbering of the regulations follows the numbering of regualtions under 38 U.S.C. chapter 31 to the extent possible. Additional regulations affecting this program are found in Part 3 and Part 17, Title 38 Code of Federal Regulations.

Subpart I—Temporary Vocational Training Program General

Sec.

21.6001 Temporary vocational training program for certain new pension recipients.
21.6005 Definitions.
21.6010 Applicability of rules and administrative procedures under 38 U.S.C., chapter 31.
21.6015 Claims and elections.
21.6021 Nonduplication—38 U.S.C. chapters 30, 31, 32, 34 and 35.

Basic Eligibility Requirements

21.6040 Eligibility for vocational training and employment assistance.
21.6042 Entry, reentry and completion.

Evaluation

21.6050 Participation of eligible veterans in an evaluation.
21.6052 Evaluations.
21.6054 Criteria for determining good employment potential for veterans age 50 and older.
21.6056 Cooperation of the veteran in an evaluation.
21.6058 Consequences of evaluation.
21.6059 Limitations on the number of evaluations.

Services and Assistance to Program Participants

21.6060 Services and assistance.

Duration of Training

21.6070 Basic duration of a vocational training program.
21.6072 Extending the duration of a vocational training program.
21.6074 Computing the period of vocational training program participation.

Individualized Written Rehabilitation Plan

21.6080 Requirement for an individualized written rehabilitation or employment assistance plan.
21.6082 Completing the plan.

Counseling

21.6100 Counseling.

Educational and Vocational Training Services

Sec.

21.6120 Educational and vocational training services.

Evaluation and Improvement of Rehabilitation Potential

21.6140 Evaluation and improvement of rehabilitation potential.

Independent Living Services

21.6160 Independent living services.

Case Status System

21.6180 Case status system.

Supplies

21.6210 Supplies.

Medical and Related Services

21.6240 Medical treatment, care and services.
21.6242 Resources for provision of medical treatment, care and services.

Financial Assistance

21.6260 Financial assistance.

Entering Vocational Training

21.6282 Effective date of induction into and termination of vocational training.
21.6284 Reentrance into a training program.
21.6290 Training resources.

Rate of Pursuit

21.6310 Rate of pursuit.

Authorization of Services

21.6320 Authorization of services under chapter 31 rules.

Leaves of Absence

21.6340 Leaves of absence.

Satisfactory Conduct and Cooperation

21.6362 Satisfactory conduct and cooperation.

Transportation Services

21.6370 Authorization of transportation services.

Additional Applicable Regulations

21.6380 Additional applicable chapter 31 regulations.

Delegation of Authority

21.6410 Delegation of authority.

Coordination With the Adjudication Division

21.6420 Coordination with the Adjudication Division

Authority: Public Law 98–543, 38 U.S.C. 210 and chapter 15, sections specifically cited.

Subpart I—Temporary Vocational Training Program

General

§ 21.6001 Temporary vocational training program for certain new pension recipients.

This program, with certain limitations, provides veterans awarded pension during the period beginning February 1, 1985, and ending January 31, 1989, with an evaluation and, if feasible, with vocational training, employment assistance and other services to enable them to achieve a vocational goal. (38 U.S.C. 524)

§ 21.6005 Definitions.

(a) *Temporary program.* The term "temporary program" means the program of vocational training for certain new pension recipients, authorized by section 524, chapter 15, title 38, United States Code, as added by Pub. L. 98–543. (38 U.S.C. 524)

(b) *Program period.* The term "program period" means the period beginning on February 1, 1985, and ending on January 31, 1989. (38 U.S.C. 524(a)(4))

(c) *Program participant.* The term "program participant" means any veteran who is awarded disability pension as provided by chapter 15, title 38, United States Code, during the program period and who, following an evaluation in which the VA finds achievement of a vocational goal is reasonably feasible for the veteran, elects to particpate in a vocational training program. (38 U.S.C. 524(a))

(d) *Vocational training program.* The term "vocational training program" means vocationally oriented services and assistance of the kind provided under chapter 31 of title 38 United States Code and such other services and assistance of the kind provided under that chapter as are necesary to enable the veteran to prepare for, and participate in, vocational training or employment. (38 U.S.C. 524(b))

(e) *Employment assistance.* The term "employment assistance" means employment counseling and placement and post placement services, and personal and work adjustment training. (38 U.S.C. 524(d)(3))

(f) *Program of employment services.* The term "program of employment services" is used when the veteran's entire program is limited to employment assistance as that term is defined in paragraph (e) of this section. (38 U.S.C. 524(b)(4))

(g) *Job development.* The term "job development" means comprehensive professional services to assist the individual veteran to actually obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran. Continuing and mutually beneficial relationships with employers should be established by VA staff through the referral of suitable employees and the provision of supportive services, e.g., adjustment counseling and job modification. Job development activities by VA staff are intended to provide disabled veterans with a chance for suitable employment

with cooperating employers. (38 U.S.C. 524(b)(3))

(h) *Institution of higher learning.* The term "institution of higher learning" shall have the same definition as is provided in § 21.4200(a). (38 U.S.C. 524 (b)(2))

(i) *Other terms.* The following terms shall have the same meaning or explanation provided in § 21.35.

(1) Vocational goal

(2) Program of education.

(3) Rehabilitation to the point of employability.

(4) Counseling psychologist.

(5) Vocational rehabilitation specialist.

(6) School, educational institution or institution.

(7) Training establishment.

(8) Rehabilitation facility.

(9) Workshop.

(38 U.S.C. 524)

§ 21.6010 Applicability of rules and administrative procedures under 38 U.S.C. Chapter 31.

(a) *General.* Title 38, U.S.C., section 524(b)(2)(A) provides, in part, that a vocational training program shall consist of vocationally oriented services and assistance of the kind provided service-disabled veterans under chapter 31, title 38, U.S.C. and other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment. (38 U.S.C. 524(b)(2)(A))

(b) *Applicable chapter 31 rules—general.* The rules and procedures in force for administration of the chapter 31 program (§ 21.1–§ 21.430) are deemed to be applicable to administration of this program in so far as their use shall not conflict with 38 U.S.C. 524 or the rules under this subpart. Where a particular grouping of chapter 31 rules are generally applicable, without modification, the rules under this subpart will be deemed to incorporate the chapter 31 rules. The chapter 31 rules may be read as written, but terms such as "chapter 31" and "service-connected disability" shall be understood to read "chapter 15" and "disabilities" whenever used. References in the chapter 31 rules to benefits (subsistence allowances, loans) or eligibility (dependents, service-connection, serious employment handicap) are to be considered inapplicable to this program and do not confer benefits or rights not provided by 38 U.S.C. 524. (38 U.S.C. 524)

§ 21.6015 Claims and elections.

(a) *Claims by veterans under age 50.* A veteran under age 50 who is awarded pension during the program period will be scheduled for an evaluation to determine whether achievement of a vocational goal is reasonably feasible, unless it is determined that the veteran in unable to participate in a evaluation for reasons beyond his or her control. If the VA, as a result of the evaluation, determines that achievement of a vocational goal is reasonably feasible, the veteran may elect to pursue a vocational training program. To make this election, the veteran must file a claim, in a form prescribed by the VA, for services under this temporary program. (38 U.S.C. 524(b))

(b) *Claims by veterans age 50 or older.* A veteran age 50 or older who is awarded pension during the program period must file a claim in the form prescribed by the VA in order to be considered for an evaluation of his or her ability to achieve a vocational goal and participate in this temporary program. The veteran's claim is considered a request for both the evaluation and, if found reasonably feasible for training, participation in a vocational training program. (38 U.S.C. 524(b))

(c) *Claims following failure to timely pursue a vocational training program.* (1) If a veteran for whom achievement of a vocational goal is found reasonably feasible does not undertake a vocational training program within the time limits specified in § 21.32, he or she must file an original or reopened claim, as appropriate, in a form prescribed by the VA in order to be considered for such services to determine if achievement of the previous vocational goal or a new vocational goal is reasonably feasible;

(2) If a veteran has been placed in discontinued case status by the VA, he or she must file a new claim in a form prescribed by the VA to reopen the case. (38 U.S.C. 524(b))

(d) *Informal claims.* Informal claims shall be governed by § 21.31. (38 U.S.C. 524(a))

(e) *Time limit.* The time limit for making a claim to pursue a vocational training program shall be governed by § 21.32. (38 U.S.C. 524(a))

§ 21.6021 Nonduplication—38 U.S.C. chapters 30, 31, 32, 34 and 35.

(a) *Election between this temporary program and chapter 31 required.* A service-disabled veteran awarded VA pension during the program period who is offered a vocational training program under 38 U.S.C. ch. 15, and is also eligible for such assistance under chapter 31, must elect which benefit he or she will receive. The veteran may reelect at any time if he or she is still eligible for the benefit desired. (38 U.S.C. 524(b)(2))

(b) *VA educational assistance programs.* A veteran who is eligible under this program may receive an educational assistance allowance under chapter 30, 32, 34 or 35 if he or she is otherwise eligible under one of these programs. (38 U.S.C. 524(b)(2))

(c) *Prior training under VA programs.* If a veteran has pursued an educational or training program under chapter 30, 32, 34 or 35, or a vocational rehabilitation program under chapter 31, the training received in the earlier program shall be considered, to the extent feasible, in determining the character and duration of the services to be furnished under this program. (38 U.S.C. 524(b)(1))

(d) *Other prior training.* If a veteran has pursued other significant training under non-VA programs or on his or her own, such training will be considered in determining the character and duration of services to be furnished. (38 U.S.C. 524(b)(1))

(e) *Not limited by use of other entitlement.* The number of months of services provided under this program are not subject to the provisions of § 21.4020 which limit the aggregate months of VA benefits to be provided. (38 U.S.C. 524(b)(2))

Basic Eligibility Requirements

§ 21.6040 Eligibility for vocational training and employment assistance.

(a) *Basic eligibility requirements.* A veteran may be provided vocational training, employment assistance and related services to achieve a vocational goal under this program, if the following basic requirements are met:

(1) The veteran is awarded pension under chapter 15, title 38, U.S.C., on or after February 1, 1985, and before February 1, 1989;

(2) The veteran participates in a VA evaluation of his or her rehabilitation potential to determine whether achievement of a vocational goal is reasonably feasible;

(3) Achievement of a vocational goal is found reasonably feasible, following evaluation by the VA;

(4) The veteran elects to pursue a vocational training program;

(5) The veteran and the VA develop and agree to an Individualized Written Rehabilitation Plan (IWRP) identifying the vocational goal and the means through which this goal will be achieved. (38 U.S.C. 524(a)(1))

(b) *Eligibility for employment assistance.* (1) As provided in this paragraph, a veteran who is a participant in this program shall be eligible to receive counseling,

placement, post placement, work and personal adjustment services furnished under § 21.6060(a)(2) for a period not to exceed 18 months. These services are further described in §§ 21.104(d)(2), 21.250(a), (b)(2), (c)(3) and (4), and 21.252, 21.254, 21.256, 21.257, and 21.258.

(2) The participants who qualify for the services described in paragraph (a) of this section include a veteran who:

(i) Has completed a vocational rehabilitation training program; (38 U.S.C. 524(b)(3))

(ii) Undertakes a vocational training program, but voluntarily terminates training. If the VA determines the veteran to be employable at the time participation in training ends, the veteran shall be deemed to have completed the vocational training program and may be provided the employment services described in paragraph (b)(1) of this section if he or she requests such assistance; (38 U.S.C. 524(b)(3))

(iii) Does not require a vocational training program because the VA determines as a result of an evaluation that he or she already possesses the training necessary for suitable employment and is able to achieve a vocational goal without further training; and (38 U.S.C. 524(b)(2))

(iv) Has been a prior participant in a vocational training program is currently employable, but needs employment assistance to obtain employment in a suitable occupation. (38 U.S.C. 524(b)(2))

(3) The 18-month period of employment services allowed under this section shall begin upon the date that a veteran under paragraph (b)(2)(i) of this section completes the vocational training program or in the case of a veteran under paragraphs (b)(2)(ii), (iii) and (iv) of this section is found to be employable. If a veteran has been provided such services and obtains suitable employment, but is later found to require additional services of this kind, the veteran may be provided such additional services during any portion of the original 18-month period remaining. (38 U.S.C. 524(b))

(c) *Eligibility if pension is terminated.* A veteran awarded pension during the program period shall remain eligible for the temporary program, subject to the rules of this subpart and section 524 of 38 U.S.C. ch. 15, even if his or her pension award is subsequently terminated, except when the veteran's award of VA pension was the result of fraud or administrative error. (38 U.S.C. 524(a))

§ 21.6042 Entry, reentry and completion.

(a) *Dates of entry.* A veteran found eligible under the provisions of § 21.6040 may not begin pursuit of a vocational training program before February 1, 1985, or later than January 31, 1989, except under the following circumstances which make timely entry impracticable:

(1) The veteran receives a pension award less than 120 days before January 31, 1989;

(2) Illness or other circumstance beyond the veteran's control prevent earlier entry. (38 U.S.C. 524(b)(4))

(b) *Entry precluded.* In no event may a veteran begin a vocational training program after August 1, 1989. (38 U.S.C. 524(b)(4))

(c) *Reentry.* The provisions of paragraphs (a) and (b) of this section are also applicable to veterans reentering a vocational training program following a redetermination of eligibility. (38 U.S.C. 524(b)(4))

(d) *Final termination of services.* No veteran may receive assistance under this temporary program after January 31, 1994. (38 U.S.C. 524(b)(4))

Evaluation

§ 21.6050 Participation of eligible veterans in an evaluation.

(a) *Veterans under age 50.* A veteran under age 50 awarded pension during the program period shall be provided an evaluation of his or her rehabilitation potential to determine whether achievement of a vocational goal is reasonably feasible. The veteran must report for and participate in the evaluation unless the failure to do so is for reasons beyond the veteran's control. Failure to report for and participate in the evaluation, for reasons other than those beyond the veteran's control, will result in suspension of the veteran's pension under § 3.342. See § 21.6056. (38 U.S.C. 524(a)(1))

(b) *Veterans age 50 or older.* An evaluation shall be accorded each veteran age 50 or older, who seeks to become a program participant, provided the VA first determines the veteran has good potential for achieving employment. Failure to choose to participate in an evaluation shall have no adverse effect upon the veteran's continued receipt of pension under § 3.342. (38 U.S.C. 524(a)(2))

(c) *Notice to eligible veteran.* (1) A qualified veteran under age 50 for whom participation in an evaluation is not clearly precluded by reasons beyond the veteran's control shall be sent a notice at the time he or she is awarded pension. The notice will inform the veteran of the provisions of this temporary program, the conditions under which participation in an evaluation is required, and the consequences on non-participation;

(2) A qualified veteran age 50 or older will be informed of the provisions of this temporary program and the procedure for requesting an evaluation. (38 U.S.C. 524(a))

(d) *Scheduling the evaluation.* (1) An evaluation will be arranged as promptly as practicable for each qualified veteran:

(i) Under age 50 who is sent the notice required under paragraph (c)(1) of this section; and

(ii) Age 50 and over who has filed a claim and is found to have good employment potential under § 21.6054;

(2) The veteran shall be provided reasonable notice of the date and time for which the evaluation is initially scheduled. (38 U.S.C. 524(a))

(e) *Followup of qualified veterans who do not complete an evaluation.* The case of each qualified veteran under age 50 for whom an evaluation was not scheduled or who does not complete an evaluation shall be reviewed for followup action by Vocational Rehabilitation & Counseling (VR&C) staff as provided in § 21.197(c) (4) and § 21.198(d). (38 U.S.C. 524(a)(1))

(f) *Limitation on the number of evaluations.* Notwithstanding the provisions of paragraphs (a) through (e) of this section, the number of evaluations which may be provided under this temporary program is subject to the limitations contained in § 21.6059. (38 U.S.C. 524(a)(3))

§ 21.6052 Evaluations.

(a) *Scope and nature of evaluation.* The scope and nature of the evaluation under this program shall be the same as for an evaluation of the reasonable feasibility of achieving a vocational goal under the procedures described for chapter 31 benefits. *See § 21.50(b)(5) and § 21.53(d) and (f).* (38 U.S.C. 524(a)(1)(2))

(b) *Specific services which may be provided in the course of evaluation in determining the reasonable feasibility of achieving a vocational goal.* The following specific services may be provided as a part of the evaluation of reasonable feasibility of achieving a vocatioal goal, as appropriate:

(1) Assessment of feasibility by a counseling psychologist;

(2) Review of feasibility assessment and of need for special services by the Vocational Rehabilitation Panel;

(3) Provision of medical and other diagnostic services;

(4) Evaluation of employability, for a period not to exceed 30 days, by professional staff of an educational or rehabilitation facility. (38 U.S.C. 524(b)

(c) *Responsibility for evaluation.* All determinations as to the reasonable feasibility of vocational training and entitlement to assistance under 38 U.S.C. 524 shall be made by a counseling psychologist in the Vocational Rehabilitation and Counseling Division. (38 U.S.C. 524(b)

§ 21.6054 Criteria for determining good employment potential for veterans age 50 and older.

(a) *Determining good employment potential of veterans age 50 or older.* Before scheduling an evaluation of feasibility to pursue a vocational goal for a veteran age 50 or older, the VA will first determine whether the veteran age 50 or older has good potential for achieving employment if provided a vocational training or employment program. This determination shall be made on the basis of the information of record, including information submitted by the veteran at the time of the veteran's request to participate in this temporary program. (38 U.S.C. 524(a)(2))

(b) *Criteria.* The criteria contained in paragraphs (c) and (d) of this section are to be applied by Vocational Rehabilitation and Counseling professional staff members to determine whether information of record supports a determination that a veteran age 50 and older has good potential for employment. Any reasonable doubt shall be resolved in the veteran's favor. (38 U.S.C. 524(a)(2))

(c) *Indicators of good potential for employment.* Indicators of good potential for employment include one or more of the following:

(1) A period of stable employment prior to the onset of disability.

(2) Strong motivation of return to the work force.

(3) Successful pursuit of education or training.

(4) Cooperation in treatment of disabling conditions.

(5) Stabilization of medical conditions or substance abuse problems.

(6) Participation in therapeutic work programs.

(7) Evidence of recent sustained job-seeking. (38 U.S.C. 524(a)(1))

(d) *Contraindications of good potential for empolyment.* Contraindications of good potential for employment include one or more of the following:

(1) A lifelong history of unstable employment with long periods of unemployment before the onset of disability.

(2) Being out of the labor market for five years or more preceding the evaluation.

(3) Unsuccessful pursuit of education or training.

(4) Noncooperation in the treatment of disability.

(5) Need for an additional period of medical care or treatment before training would be feasible.

(6) Nonparticipation in prescribed or recommended therapeutic work programs.

(7) Failure of previous vacational rehabilitation programs to achieve employability. (38 U.S.C. 524(a)(2))

(e) *Negative determinations.* If the VA does not find good employment potential, the VA will notify the veteran that he or she in not eligible to receive an evaluation. Since this finding will preclude program participation, the veteran will be informed of his or her appellate rights as described in § 21.59.

(1) If the determination cannot be made on the evidence of record, the VA shall advise the veteran and may provide him or her with an opportunity to submit additional information within a reasonable time.

(2) A veteran's disagreement with a negative finding shall be considered evidence of motivation for employment, and may, when considered in relation to other information, provide a basis for finding that good employment potential exists;

(3) If the final VA determination, following a review of a contested negative finding, is that good potential for achieving employment does not exist, a personal interview will be scheduled, and the reasons for the VA's determination shall be discussed with the veteran. (38 U.S.C. 524(a)(2))

§ 21.6056 Cooperation of the veteran in an evaluation.

(a) *Cooperation of the veteran.* The cooperation of the veteran is essential to a successful evaluation. The purpose of the evaluation and the steps in the process shall be explained to the veteran, and the importance of his or her cooperation shall be stressed. If the veteran does not cooperate in the initiation or completion of the evaluation, the counseling psychologist shall make a reasonable effort through counseling to secure the veteran's cooperation. (38 U.S.C. 524(a)(3))

(b) *Consequences of noncooperation when evaluation is required.* If the veteran fails to report for or cooperate in a required evaluation and the counseling psychologist has made a reasonable effort to secure his or her participation, the VA shall take appropriate action, including discontinuance of the evaluation under the provisions of § 21.364. If the veteran's case is discontinued under § 21.364, the Adjudication Division will be notified. The Adjudication Division also will be informed if the reason for discontinuance is subsequently removed and the evaluation process is resumed. (38 U.S.C. 524(a)(1))

(c) *Consequences of noncooperation when evaluation is not required.* If the veteran fails to report for or cooperate in an optional evaluation and the counseling psychologist has made a reasonable effort to secure the veteran's participation, the VA shall take appropriate action, including discontinuance of the evaluation under the provisions of § 21.364. The evaluation may be resumed if the reason for the discontinuance is removed and the veteran is otherwise eligible. (38 U.S.C. 524(a)(2))

§ 21.6058 Consequences of evaluation.

(a) *Eligible veteran may choose to participate.* If the VA finds, based on the evaluation, that achievement of a vocational goal by the veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs, and shall be set forth in an Individualized Written Rehabilitation Plan (IWRP) under the provisions of § 21.84 or an Individualized Employment Assistance Plan (IEAP) under § 21.88. (38 U.S.C. 524(b)(1))

(b) *Veteran ineligible to participate.* A veteran for whom achievement of a vocational goal is not found reasonably feasible shall be notified of this finding and be informed of his or her appellate rights as described in § 21.59. The veteran shall be provided the assistance described in § 21.50(b)(9). (38 U.S.C. 524(b)(1))

§ 21.6059 Limitations on the number of evaluations.

(a) *Number of evaluations.* No more than 2,500 evaluations of the reasonable feasibility of achieving a vocational goal may be given during any 12-month period, beginning on February 1, 1985 and each subsequent February 1 during the program period. (38 U.S.C. 524(a)(3))

(b) *Cases counted as evaluation.* An evaluation is deemed to be countable against the 2,500 limit permitted during each 12-month period when the following conditions are met:

(1) The veteran reports for the scheduled evaluation;

(2) The veteran is provided one or more personal interviews by a counseling psychologist; and

(3) A determination of the reasonable feasibility of achieving a vocational goal is made by the counseling psychologist.

(c) *Cases not counted as evaluations.* Computation of the number of evaluations which may be provided in a 12-month period shall exclude cases in which:

(1) The veteran under age 50 is unable to participate for reasons beyond his or her control;

(2) Review of available information does not indicate good potential for employment for a veteran age 50 or older;

(3) The veteran either fails to keep a scheduled appointment to complete the evaluation or withdraws the claim for an evaluation, or

(4) The veteran who has completed an evaluation requires or requests a reevaluation. (38 U.S.C. 524(a)(3))

(d) *Priority.* If a veteran below age 50 for whom an evaluation is required cannot be provided an evaluation during a particular 12-month period because of the limitation on the number of evaluations, the veteran will be given first priority for evaluation during the following 12-month period, or first available subsequent 12-month period, if otherwise eligible. (38 U.S.C. 524(a)(3))

Services and Assistance to Program Participants

§ 21.6060 Services and assistance.

(a) *General.* The VA may provide to program participants:

(1) Vocationally oriented services and assistance of the kind provided veterans under chapter 31, title 38, United States Code;

(2) Employment assistance during the 18 month period following completion of a vocational training program, including:

(i) Educational, vocational, psychological, employment and personal adjustment counseling;

(ii) Placement services to effect suitable placement in employment, and post-placement services to attempt to insure satisfactory adjustment in employment; and

(iii) Personal adjustment and work adjustment training. (38 U.S.C. 524(b))

(3) Such other services and assistance of the kind provided veterans under chapter 31, except as provided in paragraph (b) of this section, as are necessary to enable the veteran to prepare for, and participate in, vocational training or employment.

(b) *Services and assistance not provided.* The VA will not provide to a participant under this program any:

(1) Loan;

(2) Subsistence allowance;

(3) Automobile adaptive equipment of the kind provided eligible veterans under 38 U.S.C., chapter 39 or chapter 31;

(4) Training at an institution of higher learning in a program of education that is not predominantly vocational in content;

(5) Employment adjustment allowance;

(6) Room and board in a special rehabilitation facility for a period in excess of 30 days;

(7) Independent living services, except those which are indispensable to the pursuit of the vocational training program during the period of rehabilitation to the point of employability under § 21.6160; or

(8) Period of extended evaluation under 38 U.S.C. 1506(e). (38 U.S.C. 524(b))

Duration of Training

§ 21.6070 Basic duration of a vocational training program.

(a) *Basic duration of a vocational training program.* The duration of a vocational training program may not exceed 24 calendar months of full-time training except as provided in § 21.6072. (38 U.S.C. 524(b)(2))

(b) *Responsibility for estimating the duration of a vocational training program.* The counseling psychologist is responsible for estimating the time needed by the veteran to complete a vocational training program. The estimate is made in consultation with the veteran and the vocational rehabilitation specialist during the preparation of the IWRP. (38 U.S.C. 524(b)(1))

(c) *Duration of training prescribed must meet general requirements for entry into the occupation selected.* The veteran will be provided training for a period sufficient for the veteran to reach the level generally recognized as necessary for entry into employment in a suitable occupational objective. Where a particular degree, diploma or certificate is generally necessary for entry into employment, the veteran may be trained to that level. (38 U.S.C. 524(b))

(d) *When duration of the training period may be expanded beyond the entry level.* If the amount of training the particular veteran needs in order to qualify for employment in a particular occupation will exceed the amount generally needed for employment in that occupation, the VA may provide the necessary additional training under one or more of the following conditions:

(1) Training requirements for employment in the area in which the veteran lives or will seek employment exceed those generally needed for employment;

(2) The veteran is preparing for a type of work in which he or she will be at a definite disadvantage in competing will nondisabled persons for a job or business, and the additional training will offset the competitive disadvantage;

(3) The choice of a feasible occupation is limited and additional training will enhance the veteran's employability in one of the feasible occupations or;

(4) The number of employment opportunities within a feasible occupation is restricted. (38 U.S.C. 524(b)(2))

(e) *Estimating the duration of the training period needed.* The counseling psychologist, in estimating duration of the training period needed, must determine that:

(1) The proposed vocational training program must be one which, when pursued full-time by a nondisabled person, would not normally require more than 24 calendar months of pursuit for successful completion;

(2) The program of traning and other services needed by the veteran, based upon the VA's evaluation, will not exceed 24 calendar months, if training is pursued on a full-time basis, or 36 calendar months if pursued on a less than full-time basis. In making this determination the following criteria will be applied:

(i) The number of actual months and days of the period during which the veteran will pursue the training program will be counted.

(ii) Days of authorized leave and other periods during which the veteran will not be pursuing traning, such as periods between terms will also will be counted;

(iii) The period of evaluation prior to determination of reasonable feasibility will be excluded but the actual number of months and days needed to evaluate and improve rehabilitation potential during the training program will be included;

(iv) The time required, as determined in months and days under paragraph (a)(2)(i) through (iii) of this section, will be the total period that would be required for the veteran to accomplish the vocational program under consideration;

(v) If the total period the veteran requires exceeds 24 calendar months, when pursued on a full-time basis, and an extension of the basic training period may not be approved under § 21.6072, another suitable vocational goal must be selected for which training can be completed within that period.

(3) If the veteran's vocational training program would require more than 36 calendar months when pursued on a less than full-time basis, the program must

be reevaluated to select a vocational goal for which a suitable vocational training program can be completed within that period. (38 U.S.C. 524(b)(2))

(f) *Effect of change in the vocational goal on duration of training period.* The veteran's vocational goal may be changed during the program in accordance with § 21.94 (a) through (d). The extend to which such changes may be made is limited by the following considerations:

(1) A change of the vocational goal from one field or occupational family to another field or occupational family may only be approved before the end of the first 24 months of training, whether training is pursued on a full-time or a less than full-time basis; and

(2) A change from one occupational objective to another within the same field or occupational family shall not be considered a change in the vocational goal identified in the veteran's IWRP. (38 U.S.C. 524(b)(2))

§ 21.6072 Extending the duration of a vocational training program.

(a) *Extension of the duration of a vocational training program.* An extension of a vocational training program as formulated in the IWRP may only be approved to enable the veteran to achieve a vocational goal identified before the end of the first 24 calendar months of the program. (38 U.S.C. 524(b)(2))

(b) *Maximum number of months for which a program for new participants may be approved.* If a veteran had never participated in this temporary program of vocational training, the originally planned period of training may be extended to a total period consisting of the number of months necessary to attain the vocational goal, but in no case will a program be extended for:

(1) More than 24 calendar months beyond the originally planned period; or

(2) A period which, when added to the originally planned period, totals more than 48 months, as provided in § 21.6074(c). (38 U.S.C. 524(b))

(c) *Maximum number of months by which a program may be extended for prior participants in the temporary program.* (1) A veteran who has previously participated in this program, but who was not "rehabilitated to the point of employability," may be provided additional training under this program to complete the prior vocational goal or a different vocational goal, subject to the same provisions as apply to new participants;

(2) If a finding of prior "rehabilitation to the point of employability" is set aside to enable a veteran to pursue a program of on-job training or work experience, including the provision of employer incentives under § 21.256, the number of months for which assistance may be authorized under this program shall be established as provided in § 21.256 to the extent consistent with the rules of this section;

(3) If the determination of "rehabilitation to the point of employability" has been set aside under § 21.6284(a) or (b), additional training may be provided subject to the same provisions as apply to new participants. (38 U.S.C. 524(b))

(d) *Who may authorize an extension to a vocational training program.*

(1) The Vocational Rehabilitation Specialist (VRS) may authorize an extension of up to 3 calendar months of full-time or up to 6 calendar months of less than full-time training to the period of an existing vocational training program, if the VRS determines that the additional time is needed to successfully complete training and the following conditions are met:

(i) The veteran is in "rehabilitation to the point of employability" status under § 21.190;

(ii) The veteran has completed more than half of the prescribed training;

(iii) The veteran is making satisfactory progress;

(iv) The extension is necessary to complete training;

(v) Training can be completed with 3 months of full-time training or not more than 6 calendar months of less than full-time training; and

(vi) The extension plus the original program period will not result in a program of vocational training greater than 36 total calendar months;

(2) The counseling psychologist may approve any other extensions of the vocational training program, except as provided in paragraph (d) (3) of this section, if it is determined that the additional time is needed and the conditions for extension under paragraphs (a) and (b) of this section are met;

(3) The VR&C Officer must also concur in an extension of the vocational training program beyond 24 months when paragraphs (a) through (c) of this section are met. (38 U.S.C. 524(b)(2))

§ 21.6074 Computing the period of vocational training program participation.

(a) *Computing the participation period.* The number of months and days used in a vocational training program shall be computed on the basis of calendar months and days during which the program participant is receiving services under the plan developed in accordance with § 21.6080, whether training is pursued on a full-time or less than full-time basis. Leaves of absence during a period of instruction and periods in which the veteran does not pursue actual training, such as breaks between periods of instruction, are included. (38 U.S.C. 524(b))

(b) *Period of employment services separate.* The period during which employment services may be provided pursuant to § 21.6040(b) is not included in computing the period used for vocational training under this program. (38 U.S.C. 524(b))

(c) *Limitations.* (1) A program participant may receive the services necessary to carry out the vocational training program during a maximum period of 48 months. The 48-month period begins to run on the day the veteran begins to receive the services needed to carry out the vocational training program as specified in the IWRP, and ends 48 months from that date.

(2) Employment services which begin before the end of the 48-month period may be continued for the period specified in the IEAP, or may be provided after the end of the 48 month period if so specified in the IWRP or IEAP, subject to the provisions of § 21.6040(b). (38 U.S.C. 524(b) (2), (3))

Individualized Written Rehabilitation Plan

§ 21.6080 Requirement for an individualized written rehabilitation or employment assistance plan.

(a) *General.* An Individualized Written Rehabilitation Plan (IWRP) and/or Individualized Employment Assistance Plan (IEAP) will be developed for each program participant for services under 38 U.S.C. 524. These plans shall be developed in the same manner as for chapter 31 purposes. *See §§ 21.80, 21.84, 21.88, 21.90, 21.92, 21.94 (a) through (d), 21.96 and 21.98.* (38 U.S.C. 524(b)(2))

(b) *Selecting the type of training to include in the plan.* The use of on-job training, including non-pay training, a combination of on-job and institutional training, or institutional training to accomplish the goals of the program should be explored in each case. On-job training, or a combination of on-job and institutional training, should generally be used:

(1) When these options are available;

(2) When these options are as suitable as institutional training for accomplishing the goals of the program; and

(3) The veteran agrees that such training will meet his or her needs. (38 U.S.C. 524(b))

(c) *Changes in the plan.* Any change amending the duration of a veteran's plan is subject to provisions governing duration of a vocational training program described in §21.6070 and § 21.6072. (38 U.S.C. 524(b)(1))

(d) *Change in the vocational goal after 24 months of training.* If a veteran seeks to change the vocational goal after receipt of 24 months of training and the change is not permitted under § 21.6070(f), the counseling psychologist shall inform the veteran that:

(1) No change of goal may be authorized but training for the vocational goal previously established may be continued, if it is still reasonably feasible for the veteran to pursue the training under appropriate extensions of the program pursuant to § 21.6072;

(2) If the veteran elects to terminate the planned vocational training program, he or she shall be provided assistance, to the extent provided under § 21.80(d), in identifying other resources through which the training desired may be secured;

(3) If the veteran disagrees with the decision, the veteran's case shall be considered under the provisions of § 21.98. (38 U.S.C. 524(b)(2)).

§ 21.6082 Completing the plan.

(a) *Completing the plan.* If the VA determines that the veteran is unable to complete the program within the time limits of the plan after training has begun and the conditions for extension are not met, the long-range vocational goal of the veteran must be reevaluated, and another vocational goal selected which can be completed within the limits prescribed in § 21.6054 and § 21.6072. (38 U.S.C. 524(b)(1))

(b) *Employment assistance when training is not completed under 38 U.S.C. chapter 15.* A plan for employment assistance may be implemented under § 21.6040(b) even though the veteran's vocational training program has not been, or will not be, completed under this temporary program, provided the other requirements for participation in the program are met. (38 U.S.C. 524(b)(3))

Counseling

§ 21.6100 Counseling.

General. A veteran requesting or being furnished assistance under the temporary program shall be provided professional counseling services by the Vocational Rehabilitation and Counseling (VR&C) Division and other qualified staff as necessary, and in the same manner as such services are provided veterans participating in a Chapter 31 program. *See §§ 21.100, 21.380.* (38 U.S.C. 524(a) (1), (2) and (b)(2))

Educational and Vocational Training Services

§ 21.6120 Educational and vocational training services.

(a) *Purposes.* Educational and vocational training services are to be provided to a veteran eligible for services and assistance under this temporary program to enable the veteran to:

(1) Become employable in the occupational objective established in an IWRP; and

(2) Receive incidental training necessary to achieve the employment objective established in an IEAP. (38 U.S.C. 524(b)(1))

(b) *Selection of courses.* The VA and the veteran will select vocationally oriented courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or employment. The educational and training services to be provided include:

(1) Remedial, deficiency and refresher training; and

(2) Training which leads to a vocational objective. All of the forms of program pursuit presented in § 21.122 through § 21.132 may be authorized. Education and training programs in institutions of higher learning are authorized provided the courses are part of a program which is predominantly vocational in content. The program of education and training shall be considered to be predominantly vocational in content if the majority of the instruction offered provides the technical skills and knowledge generally regarded as specific to, and required for, entry into the vocational goal approved for the veteran. Such education and training may generally be authorized at an undergraduate or advanced degree level. However the following are excluded;

(i) An associate degree program in which the content of the majority of the instruction provided is not vocationally oriented;

(ii) The first two years of a 4-year baccalaureate degree program;

(iii) The last two or more years of a 4-year baccalaureate degree program except in degree programs with majors in engineering, teaching, or other similar degree programs with vocational content which ordinarily lead directly to employment in an occupation that is usually available to persons holding such a degree; or

(iv) An advanced degree program, except for a degree program required for entry into the veteran's employment objective, such as a master's degree in social work. (38 U.S.C. 524(b))

(c) *Charges for education and training services.* The cost of education and training services will be considered in selecting a facility when:

(1) There is more than one facility in the area in which the veteran resides which:

(i) Meets the requirements for approval under § 21.290 through § 21.299;

(ii) Can provide the education and training services and other supportive services specified in the veteran's plan; and

(iii) Is within reasonable commuting distance; or

(2) The veteran wishes to train at a suitable facility in another area, even though training can be approved at a suitable facility in the area in which the veteran resides. See §§ 21.120, 21.370, 21.372. (38 U.S.C. 524(b)(2))

(d) *Courses not available.* If suitable educational and training courses are not available in the area in which the veteran resides, or if they are available but not accessible to the veteran, other arrangements may be made. Such arrangements may include, but are not limited to:

(1) Relocation of the veteran to another area in which necessary services are available, or

(2) Use of an individual instructor to provide necessary training as provided under § 21.146. (38 U.S.C. 524(b))

Evaluation and Improvement of Rehabilitation Potential

§ 21.6140 Evaluation and improvement of rehabilitation potential.

(a) *General.* The services described in paragraph (d) of this section may be used to:

(1) Evaluate rehabilitation potential;

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the veteran's potential for vocational rehabilitation; or

(ii) A vocational training; and

(3) Reevaluate the vocational training potential of a veteran participating in a rehabilitation program. (38 U.S.C. 524(a))

(b) *Periods during which evaluation and improvement services may be provided.* Services described in paragraph (d) of this section may be provided during:

(1) An evaluation or reevaluation;

(2) Rehabilitation to the point of employability;

(3) Employment services. (38 U.S.C. 524(b)(2))

(c) *Duration of services.* The duration of services needed to improve rehabilitation potential, furnished on a full-time basis either as a preliminary part of the period of rehabilitation to the point of employability or as the total program, may not exceed 9 months. If these services are furnished on a less than full-time basis the duration will be for the period necessary, but may not exceed the equivalent of 9 months of full-time training. See § 21.6310. (38 U.S.C. 524(b)(2))

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Medical care and treatment;

(4) Independent living services indispensable to pursuing a vocational training program;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services. (38 U.S.C. 524(b)(2))

(e) *Applicability of chapter 31 rules.* The provisions of § 21.140 are not applicable to this temporary program. The provisions of § 21.142 through § 21.156 are applicable, subject to provisions of this section. (38 U.S.C. 524(b)(2))

Independent Living Services

§ 21.6160 Independent living services.

(a) *Services must be part of a vocational training program.* Independent living services may be provided as a part of a veteran's IWRP when such services are indispensable to the achievement of the vocational goal, but may not be provided as the sole program of rehabilitation for the veteran, since a vocational training program for the veteran must be found reasonably feasible before the IWRP is prepared. (38 U.S.C. 524(b)(2))

(b) *Independent living services which may be furnished under this program.* The independent living services which may be furnished include:

(1) Training in independent living skills;

(2) Health management programs;

(3) Identification of appropriate housing accommodations; and

(4) Personal care service for a transitional period not exceed two months. (38 U.S.C. 524(b))

(c) *Coordination with other VA elements and other Federal, State, and local programs.* Provision of independent living services and assistance will generally require extensive coordination with other VA and non-VA programs. The resources of VA medical centers shall be utilized as prescribed in § 21.6242. If appropriate arrangements cannot be made to provide these services through VA medical centers, other governmental and private nonprofit programs may be used to secure necessary services if the facility or individual providing services meets the requirements of § 21.294. (38 U.S.C. 524(b))

(d) *Applicability of chapter 31 rules.* Neither § 21.160 nor § 21.162 are applicable to provision of independent living services under this program (38 U.S.C. 524(b))

Case Status System

§ 21.6180 Case status system.

(a) *General.* The case status system used in administering benefits under the chapter 31 program, as provided in § 21.180 through § 21.198, will be utilized in a similar manner in this program subject to the provisions of paragraph (b) of this section. (38 U.S.C. 524(b)(2))

(b) *Limitations on applicability of chapter 31 rules.* (1) The provisions of § 21.180 (e)(2) and (3), § 21.188, and § 21.192 are not applicable to this temporary program;

(2) Other incidental references to service-connected disability, chapter 31, "extended evaluation" status, or independent living status or other services precluded under § 21.6060(b), found in § 21.180 to § 21.198, are not for application to this temporary program. (38 U.S.C. 524(b)(2))

Supplies

§ 21.6210 Supplies.

(a) *Purpose of furnishing supplies.* Supplies are furnished to enable a veteran to pursue training, obtain and maintain employment and achieve the goals of his or her program. (38 U.S.C. 524(b)(2))

(b) *Definition.* The term "supplies" includes books, tools and other supplies and equipment which the VA determines are necessary for the veteran's vocational training program. (38 U.S.C. 1504(a))

(c) *Periods during which supplies may be furnished.* Supplies may be furnished to a veteran receiving:

(1) An evaluation of reevaluation;

(2) Rehabilitation to the point of employability; or

(3) Employment services. (38 U.S.C. 524(b)(2))

(d) *Applicability of 38 U.S.C. chapter 31 regulations.* The provisions of § 21.210 are not applicable to veterans in this temporary program. The provisions of § 21.212 through § 21.224 are applicable to veterans pursuing vocational training and employment under this program in a similar manner as under chapter 31, except the portions thereof noted as follows:

(1) Section 21.216(a)(3) pertaining to special modifications, including automobile adaptive equipment;

(2) Section 21.220(a)(1) pertaining to advancements from the revolving fund loan;

(3) Section 21.222(b)(x) pertaining to a veteran discontinued from an independent living services program. (38 U.S.C. 524(b)(2))

Medical and Related Services

§ 21.6240 Medical treatment, care and services.

(a) *General.* A participant in a vocational training program or receiving employment assistance shall be furnished medical treatment, care and services which the VA determines are necessary to develop, carry out and complete the veteran's plan. (38 U.S.C. 524(b)(2))

(b) *Scope of services.* The services which may be furnished include the medical treatment, care and dental services described in part 17 of this title. In addition, the following services may be authorized even if not included or described in part 17:

(1) Prosthetic appliances, eyeglasses, and other corrective or assistive devices;

(2) Services to a veteran's family as necessary for the effective rehabilitation of the veteran;

(3) Special services (including services related to blindness and deafness) including:

(i) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(ii) Orientation, adjustment, mobility and related services; and

(iii) Telecommunications, sensory and other technical aids and devices. (38 U.S.C. 524(b)(2))

(c) *Periods of eligibility.* A veteran is eligible for the services described in paragraph (b) of this section during:

(1) Evaulation;

(2) Rehabilitation to the point of employability;

(3) Employment services; and

(4) Other periods, to the extent that services are needed to begin or continue in any of the periods described in paragraphs (1) through (3) of this section. Such periods include, but are not limited to, those when services are needed to facilitate reentry into training following:

(i) Interruption; or

(ii) Discontinuance because of illness or injury. (38 U.S.C. 524(b)(2))

§ 21.6242 Resources for provision of medical treatment, care and services.

(a) *General.* VA medical centers are the primary resources for the provision of medical treatment, care and services for program participants which may be authorized under the provisions of § 21.6240. The availability of necessary services in VA facilities shall be ascertained in each case. (38 U.S.C. 524(b)(2))

(b) *Hospital care and medical services.* Hospital care and medical services provided to program participants shall only be furnished in facilities over which the VA has direct jurisdiction, except as authorized on a contract or fee basis under the provisions of Part 17 of this title. (38 U.S.C. 524(b)(2))

Cross-References: See § 17.30 (l). Hospital care. § 17.30 (m) Medical services.

(c) *Provisions of § 21.240 and § 21.242.* The provisions of §§ 21.240 and 12.242 are not applicable to this temporary program. (38 U.S.C. 524(b))

Financial Assistance

§ 21.6260 Financial assistance.

(a) *Direct financial assistance prohibited.* The provisions of § 21.260 and § 21.264 through § 21.276 are not applicable to veterans pursuing training and employment under this temporary program, except as indicated in paragraph (b) of this section. (38 U.S.C. 524(b)(2)(B)(ii))

(b) *Training costs.* The provisions of § 21.262 pertaining to reimbursement for training costs will be followed to reimburse vendors for services provided under this temporary program. (38 U.S.C. 524(d))

Entering Vocational Training

§ 21.6282 Effective date of induction into and termination of vocational training.

(a) *Induction.* Subject to the limitations set forth in § 21.6042, the date a veteran is inducted into vocational training shall be the earlier of:

(1) The date the facility requires the veteran to report for prescribed activities; or

(2) The date the program begins at the facility providing services. (38 U.S.C. 524(b)(2))

(b) *Termination.* A veteran's training program shall be terminated under the provisions of § 21.6180. (38 U.S.C. 524(b)(2))

§ 21.6284 Reentrance into a training program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran in a vocational training program under this temporary program who has been found "rehabilitated" under provisions of § 21.196 may be provided an additional period of training or services only if the following conditions are met and the veteran is otherwise eligible:

(1) Current facts, including any relevant medical findings, establish that the veteran's disability has worsened to the extent that he or she is precluded from performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(2) The occupation for which the veteran previously was found rehabilitated under this temporary program is found to be unsuitable. (38 U.S.C. 524(b)(1))

(b) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided if any of the conditions in paragraph (a) of this section or of the following conditions are met and the veteran is otherwise eligible:

(1) The services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued training;

(2) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(3) The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation. (38 U.S.C. 524(b)(3))

§ 21.6290 Training resources.

(a) *Applicable 38 U.S.C. chapter 31 provisions.* The provisions of § 21.290 through § 21.299 are applicable to veterans pursuing vocational training and employment under this program in the same manner as under 38 U.S.C. chapter 31, except as specified in paragraph (b) of this section. (38 U.S.C. 524(b)(2))

(b) *Limitations.* The provisions of § 21.294(b)(i) and (ii) pertaining to independent living services are not applicable to this temporary program. The provisions of § 21.294(b)(iii) pertaining to authorization of independent living services as a part of an Individualized Written Rehabilitation Plan (IWRP) are applicable to this temporary program to the extent provided under § 21.6160. (38 U.S.C. 524(b)(2))

Rate of Pursuit

§ 21.6310 Rate of pursuit.

(a) *General requirements.* A veteran should pursue a vocational training program at a rate which is consistent with his or her ability to successfully pursue training, considering:

(1) Effects of his or her disability;

(2) Family responsibilities;

(3) Travel;

(4) Reasonable adjustment to training; and

(5) Other circumstances which affect the veteran's ability to pursue training. (38 U.S.C. 524(b)(1))

(b) *Continuous pursuit.* A veteran should pursue a program of vocational training with as little interruption as necessary, considering the factors described in paragraph (a) of this section. (38 U.S.C. 524(b)(1))

(c) *Responsibility for determining the rate of pursuit.* VR&C staff, in consultation with the veteran, will determine the rate and continuity of pursuit of training. Consultation with the medical consultant and the Vocational Rehabilitation Panel should be utilized as necessary. This determination will be made in the course of developing the plan, but may be changed later, as necessary to enable the veteran to complete his or her training. (38 U.S.C. 524(a)(1))

(d) *Measurement of training time used.* The rate of pursuit shall be measured on the basis of the provisions of § 21.310. A veteran may not pursue training on a less than half-time basis as measured under § 21.310, except for brief periods, after which training must be resumed on a half-time or greater basis. Brief periods are limited to all or part of a semester, term or quarter, or up to 90 days in a course not conducted on a semester, term, or quarter basis. (38 U.S.C. 524(h)(1))

(e) *Reduced work tolerance.* The provisions of § 21.312 are not applicable to this temporary program. (38 U.S.C. 524(b))

(f) *Pursuit of training under special circumstances.* The provisions of § 21.314 are not applicable to this temporary program. (38 U.S.C. 524(b)(2))

Authorization of Services

§ 21.6320 Authorization of services under chapter 31 rules.

(a) *General.* Sections 21.320 through 21.334 are not applicable to a veteran pursuing a vocational training program except as specified in paragraph (b) of this section. (38 U.S.C. 524(b)(2))

(b) *Applicable rule.* Section 21.326 pertaining to the beginning and ending dates of a period of employment services is applicable to veterans under this temporary program. (38 U.S.C. 524(b)(2))

Leaves of Absence

§ 21.6340 Leaves of absence.

(a) *General.* The VA may approve leaves of absence under certain conditions. During approved leaves of absence, a veteran shall be considered to be pursuing training for purposes of computing the duration of a vocational training program under §§ 21.6070 through 21.6074. Leave may only be authorized for a veteran during a period of rehabilitation to the point of employability. (38 U.S.C. 524(b))

(b) *Purpose.* The purpose of the leave system is to enable the veteran to maintain his or her status as an active participant and avoid interruption or discontinuance of training. (38 U.S.C. 524(b))

(c) *Applicability of chapter 31 rules.* The provisions of § 21.340 are not applicable to this temporary program. The provisions of § 21.342 through § 21.350 are applicable except for § 21.346. (38 U.S.C. 524(b))

Satisfactory Conduct and Cooperation

§ 21.6362 Satisfactory conduct and cooperation.

The provisions of § 21.362 and § 21.364 are applicable to veterans pursuing vocational training under this program in the same manner as under 38 U.S.C. chapter 31. (38 U.S.C. 524)

Transportation Services

§ 21.6370 Authorization of transportation services.

(a) *General.* The VA shall authorize transportation services necessary for a veteran to pursue a vocational training program under this temporary program. Transportation services include:

(1) Transportation for evaluation, reevaluation or counseling authorized under § 21.376;

(2) Inter- and intraregional travel which may be authorized under § 21.370 (except for (b)(2)(iii)(B)) and § 21.372;

(3) Special transportation allowance authorized under § 21.154;

(4) Commuting to and from training and seeking employment as authorized under paragraphs (c) and (d) of this section. (38 U.S.C. 524(b))

(b) *Reimbursement.* Payment of transportation services authorized by the VA shall normally be made in arrears and in the same manner as tuition, fees and other services authorized under this program. (38 U.S.C. 524(b))

(c) *Transportation payment.* A veteran may be reimbursed for the costs of commuting to and from training and seeking employment if he or she requests such assistance and the VA determines after careful examination of the veteran's situation, and subject to the limitation contained in paragraph (d) of this section, that the veteran would be unable to pursue training without such assistance. The VA may:

(1) Reimburse the facility at which the veteran is training if the facility provides transportation or related services;

(2) Reimburse the veteran for his or her actual commuting expense. (38 U.S.C. 524(b))

(d) *Limitations.* Payment of commuting expenses may not be made for any period:

(1) Except during the period of training and the first three months of employment services;

(2) When a program participant is employed;

(3) In which a program participant is eligible for, and entitled to, payment of commuting costs through other VA and non-VA programs;

(4) In which it becomes feasible for the veteran to commute to school with family, friends or fellow students. (38 U.S.C. 524(b))

(e) *Amount which may be paid.* The VA will reimburse the veteran for his or her actual cost, not to exceed $70 per month. Necessary supportive documentation must be submitted with each request for reimbursement. Payment will be made monthly or at longer intervals as may be agreed to in the IWRP. (38 U.S.C. 524(b))

(f) *Nonduplication.* A veteran eligible for reimbursement of transportation services under this section and § 21.156 may only receive the benefit provided under § 21.154. (38 U.S.C. 524(b))

Additional Applicable Regulations.

§ 21.6380 Additional applicable chapter 31 regulations.

The following regulations are applicable to veterans pursuing the vocational training under this program in the same manner as they apply to 38 U.S.C. chapter 31: § 21.380, § 21.390, § 21.400, § 21.402, § 21.412, § 21.414, (except (d) and (e)), § 21.420 and § 21.430 (except (a)). (38 U.S.C. 524)

Delegation of Authority

§ 21.6410 Delegation of authority.

(a) *General.* Authority is delegated to the Chief Benefits Director and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Counseling Service, to make findings and decisions under 38 U.S.C. 524 and the applicable regulations, precedents and instructions pertaining to this program. See § 2.6(b). (38 U.S.C. 212(a))

(b) *Applicability of §§ 21.412 and 21.414.* The provisions of §§ 21.412 and 21.414 (except for (d) and (e)) are applicable to this temporary program. (38 U.S.C. 212(a))

Coordination With the Adjudication Division

§ 21.6420 Coordination with the Adjudication Division.

It is the responsibility of the VR&C Division to inform the Adjudication Division in writing of the following changes in the veteran's circumstances contained in the following paragraphs. (38 U.S.C. 524)

(a) *Evaluation.* (1) The date an evaluation being provided a veteran under age 50 is suspended because of unsatisfactory conduct or noncooperation; and

(2) The date the evaluation is resumed;

(b) *Income information.* Any information relating to income from work or training which may affect the veteran's continued entitlement to pension, including participation in:

(1) A work adjustment program, incentive or therapeutic work program, vocational training in a rehabilitation facility, or employment in a rehabilitation facility or sheltered workshop;

(2) On-job training;

(3) The work portion of a cooperative or combination program;

(4) Internships; and

(5) Full or part-time employment. (38 U.S.C. 524)

(c) *Dependency changes.* Information regarding dependency changes if the case manager learns of such changes in

the normal course of performing his or her duties. (38 U.S.C. 524)

[FR Doc. 87-18351 Filed 8-12-87; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3247-1]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; VOC Bubble Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Extension of public comment period.

SUMMARY: On June 1, 1987 (52 FR 20422) EPA proposed approval of revisions to the Comonwealth of Massachusetts' State Implementation Plan. On July 6, 1987 (52 25256) EPA granted an extension of the public comment period to August 1, 1987. The Conservation Law Foundation (CLF) has requested a further extension of time for public comment. EPA has evaluated this request and is hereby granting a ten (10) day extension of the public comment period.

DATES: Comments should be received on or before August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene at (617), 565-3244; FTS 835-3244.

Authority: 42 U.S.C. 7401-7642.

Date: August 5, 1987.

Stephen F. Ells

Acting Regional Administrator, Region I.

[FR Doc. 87-18487 Filed 8-12-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[OW-4-FRL-3246-5]

Ocean Dumping; Proposed Site Designation

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing dredged material disposal site in the Atlantic Ocean offshore Georgetown, South Carolina, as an EPA approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of dredged material.

DATE: Comments must be received on or before September 14, 1987.

ADDRESSES: Send comments to: Sally S. Turner, Chief, Marine Protection Section, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, GA 30365.

The file supporting this proposed site designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street SW., Washington, DC 20460

EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Chris Provost, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the sites are located. This proposed site is in Region IV and the designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*), and was extended on August 19, 1985, (50 FR 33338). The list established the Georgetown site as an interim site.

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. See 39 FR 16186 (May 7, 1984).

EPA has prepared a draft and final EIS entitled, "Environmental Impact Statement for Savannah, Georgia, Charleston, South Carolina, Wilmington, North Carolina, Ocean Dredged Material Sites Designation." A final supplement to that EIS (SEIS) has been prepared for the Georgetown site designation.

On January 24, 1986, a notice of availability of the Georgetown final SEIS for public review and comment was published in the **Federal Register** (51 FR 3250 (January 24, 1986)). The public comment period on the final SEIS closed February 24, 1986. Anyone desiring a copy of the SEIS may obtain one from the address above. No comments were received on the final SEIS.

The action discussed in the supplemental EIS is the final designation for continuing use of the ocean dredged material disposal site near Georgetown, South Carolina. The purpose of the proposed action is to provide an environmentally acceptable location for the ocean disposal of materials dredged from the Georgetown Harbor channel system when ocean disposal is found to be necessary for some dredged materials. The need for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The SEIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The SEIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Coastal Zone Management and Endangered Species Coordination

The South Carolina Coastal Council has concurred with EPA's coastal consistency determination. Also, the National Marine Fisheries Service has concurred with EPA's determination that the designation of this disposal site will not affect the endangered species under their jurisdiction. The U.S. Fish and Wildlife Service (FWS) has also concurred with the determination that the species under FWS jurisdiction will not be affected by the site designation.

D. Proposed Site Designation

The proposed action is the permanent designation of the existing Georgetown ocean dredged material disposal site.

Boundary coordinates for the existing Georgetown site are as follows:

33° 11' 18" N.; 79° 07' 20" W.;
33° 11' 18" N.; 79° 05' 23" W.;
33° 10' 38" N.; 79° 05' 24" W.;

33° 10' 38" N.; 79° 07' 21" W.;

E. Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any perturbations from the dumping and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. The proposed site conforms to the five general criteria except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, that no environmental benefit would be obtained by selecting a site off the Continental Shelf instead of that proposed in this action.

The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific criteria used in evaluating a proposed disposal site to assure that the general criteria are met. EPA established these 11 criteria to constitute an environmental assessment of the impact of the site for disposal. The characteristics of the proposed site are reviewed below in terms of these 11 criteria.

1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast (40 CFR § 228.6(a)(1))

The boundary coordinates of the site are given above. The existing Georgetown site is approximately three nautical miles (nmi) from shore and encompasses an area of approximately one square nmi. Water depths at the site range from six to eleven meters.

Within the site and adjacent areas the bottom slopes gently down in a seaward direction and is featureless, showing no evidence of mounding from past disposal.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2))

The proposed site is three miles from the inlet of Winyah Bay. Winyah Bay is an area through which shrimp and finfish seasonally migrate. The nearshore coastal area off Georgetown Harbor is used for breeding, spawning, and nursery of a variety of marine organisms. In the area of Winyah Bay the loggerhead sea turtle is known to nest on beaches adjacent to the inlet, and the Atlantic short-nosed sturgeon congregate at the inlet jetties prior to moving into the estuary.

The impact of past dredged material disposal at the site has most likely been limited to a short-term interruption of migration of species through the area due to increases in water column suspended solids concentrations during immediate dumping operations at the site. Since the migratory routes of these species are not geographically limited to the disposal site area, continued disposal at the site is not expected to alter the migration pattern of these species.

The current velocities in the disposal site area are minimal and influenced by highly variable weather events and the freshwater discharges from Winyah Bay. Net transport is southerly, away from turtle nesting areas. In addition, since the disposal site is three miles offshore, it is unlikely that suspended sediments from the disposal operations will be transported shoreward and accumulated in sufficient quantities to impact these turtle nesting areas.

3. Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3))

Based on the location of the disposal site and the current patterns, continued disposal will not significantly affect recreational uses of the surrounding amenity areas. Major bathing beaches are approximately fifteen miles north and away from the direction of net transport at the proposed site. Although some sport fishing occurs in the area of the site, waters further offshore are more typically fished. There are also two artificial reefs in the area, five miles to the northeast and nine miles to the southeast. The dredged materials from the Georgetown area are predominantly fine-grained sands that would be expected to sink rapidly to the bottom within the site. These amenities are located far enough away so that impacts due to disposal operations have not occurred in the past, and it is unlikely that there will be any impact to these areas in the future.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any (40 CFR 228.6(a)(4))

The material to be dumped at the disposal site will result from dredging the entrance channel to Winyah Bay and adjacent areas. An annual average (based on the years 1973 through 1984) of 286,666 cubic yards of dredged material has been dumped at the proposed site with no significant long-term impacts to the affected environment detected. Dredged material may not be approved for ocean dumping unless it meets the criteria in 40 CFR Part 227. Sediments dredged from the entrance channel are predominantly sand, which are considered suitable for ocean disposal. Initial bioassays indicate that the dredged material is not toxic to marine organisms. Hopper dredge is the type of vehicle used for dredging, transport, and disposal of the dredged material. This method will continue to be used in the future.

5. Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5))

The U.S. Coast Guard is not currently conducting surveillance for disposal operations at the proposed site; however, due to the proximity of the site to shore, surveillance would not be difficult. Either shore-based observers or day-use boats could be used for surveillance.

Periodic environmental monitoring will commence upon site designation and will continue as long as the site is used. A specific monitoring plan for the site has not been developed. General monitoring objectives for the site would include bathymetric measurements to identify shoaling or mounding areas. If movement of the material appears likely to impact a known resource, analysis of the benthic community or the specific resource would then be undertaken. Specific monitoring objectives will be determined based on the use of the site. Periodic bioassays and bioaccumulation studies of the dredged material will also ensure that the material will not adversely affect the marine biota at the site.

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any (40 CFR 228.6(a)(6))

The surface and bottom current velocity and direction is variable at the site, depending on the strengths of the tidal current, wind and wave current, and river discharge components. A longshore current flows southerly across the disposal site. Therefore, the disposal plume will typically be transported southerly, away from the mouth of the channel entrance.

High-resolution profiling has been conducted at the site before and after

disposal operations and significant long-term mounding or accumulation of dredged materials has not been detected at or beyond the site. Storms producing wave action affecting the entire water column are believed to cause dispersion on the sandy sediments dumped at the site. The dispersion of these sediments from past disposal has not impacted major bathing beaches (15 miles north) or other amenities in the area. It is unlikely that dispersion of future disposed sediments will significantly impact these areas due to their distances from the site and the fact that the dredged material is expected to settle rapidly.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) (40 CFR 228.6(a)(7))

Dredged material disposal at the site has occurred for the past 30 years and has produced only minor reversible effects as evidenced by: Temporary increases above ambient suspended sediment concentrations, temporary localized mounding, smothering of some benthic organisms, and possible releases of other trace constituents into the overlying waters.

The disposal site area receives large amounts of freshwater runoff via Winyah Bay, heavily laden with suspended sediments. The changes in suspended sediment concentrations due to dredged material disposal are insignificant in comparison to the natural sediment input from Winyah Bay. Thus inputs of suspended solids from the disposal of dredged material are not expected to have significant impacts. The localized mounding is only a short-term effect as currents and wave action quickly disperse the sediments throughout the site. In addition, no long-term mounding has been detected at or beyond the site from previous disposal operations.

Smothering of benthic organisms will most likely be restricted to sediment dwellers such as tube dwelling polychaete worms and various species of amphipod crustaceans. The physical similarity between dredged material and disposal of natural sediments will avoid adverse impacts on the benthos resulting from the overlaying of dissimilar sediments. In addition, the ability of these organisms to recolonize in similar sediments further reduces the likelihood of any long-term impact.

Results of bioassay and bioaccumulation tests using Georgetown sediments indicate that releases of trace constituents during dumping are neither directly toxic to marine organisms nor accumulated in tissues.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8))

Extensive commercial shipping, sports fishing, and recreational boating occur in the Winyah Bay area. However, most of these activities occur either shoreward or seaward of the proposed site.

Commercial shrimping occurs primarily within three miles from shore; however, around the entrance to Winyah Bay shrimpers often work further offshore. Shrimp around the disposal site may be temporarily impacted during disposal operations due to high turbidity. However, the naturally high turbidity levels far outweigh impacts of increased turbidity resulting from dredged material disposal operations; and the temporary impacts associated with disposal would not be significant. Moreover, the 30 years of past disposal in the area have not presented any significant problems to this fishery.

Disposal operations at the proposed site will most likely have no impact on the inshore shellfish grounds since they are far removed from the site (more than 5 miles), and net sediment transport is away from these areas. For the same reasons it is also unlikely that the blue crab fishery in the Winyah Bay and Santee River estuaries will be influenced by offshore disposal.

Most of the commercial finfish landings in the area have consisted of black sea bass, grouper, snapper, sturgeon, and other reef fishes. Since these fishes are associated with hard bottom areas, which have not been found in or near the proposed site, no impact from previous disposal operations has been observed. No impact on these fisheries is expected from future disposal activities.

In summary, previous dredged material disposal operations are not known to have interfered with any of the above activities primarily because the proposed site is not located in an area where these fisheries are concentrated.

No resource development such as mineral extraction or desalination, occurs in the vicinity of the proposed site. No aquaculture or scientific activities occur in the proposed disposal site or surrounding areas.

The proposed site is adjacent to the major shipping channel into Georgetown Harbor. However, it is far enough away so that its intermittent use should not impede commercial shipping or aggravate congestion within the shipping channel.

9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys (40 CFR 228.6(a)(9))

Investigations of the dredged material disposal site by the South Carolina Marine Resources Center (SCMRC) used in developing the final EIS have indicated that previous disposal has had no significant adverse effects on water quality (e.g., dissolved nutrients, trace metals, dissolved oxygen, or pH). High fresh water runoff via Winyah Bay results in varied salinity and high turbidity at and near the site. Trace contaminants in the water were shown to be within or below ranges noted elsewhere along the Atlantic coast. Many metals were below detection limits as were PCBs and all pesticides tested.

Fish and shrimp dominate the nekton community in the general area, and species are typical of those reported from the coastal waters all along the South Atlantic Bight. Several of these species are commercially and recreationally important. These species include the brown and white shrimp, black sea bass, red snapper, mackeral, Atlantic sturgeon, and many others. As discussed previously, impacts on these species are not expected.

Bottom sediments at the site are medium to coarse grain sands, according to the SCMRC study. Comparison of pollutant content of these sediments with other data near the site and elsewhere along the coast indicate that the sediments at the proposed site are not polluted. The benthic infaunal community is characteristic of coastal medium to coarse sands in the vicinity of the proposed site. Benthic species diversity is variable from season-to-season, with summer diversity high.

Short-term smothering of the benthic organisms at the site has occurred during past disposal operations and is expected to continue in the future. However, due to natural recolonization of the benthos in similar sediments and the dispersive characteristics of the site, this short-term impact is not expected to significantly alter the ecology beyond the boundary of the site. Moreover, this site has been used for dredged material disposal for the last 30 years; and the SCMRC studies indicate that there are no significant differences in the biological characteristics of the site and adjacent control sites that could be attributed to dredged material disposal. This includes impacts to the fish and shrimp species mentioned above.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10))

The similarity of the physical and chemical nature of the dredged material to the existing sediments at the proposed site indicates that the development or recruitment of nuisance species is unlikely. No evidence of nuisance species has been detected at the site after 30 years of use.

11. Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Features of Historical Importance (40 CFR 228.6(a)(11))

There are no known historical cultural or natural features within the area of the site. In fact the only feature of historical importance in the area is the "Sir Robert Peel" wreck which is inshore of the site. Past disposal operations have not disturbed this wreck, and it is unlikely that future disposal will have any impact on this feature.

F. Proposed Action

Dredged material disposal has occurred at the proposed site for the past 30 years. Recent surveys have detected no persistent or cumulative changes in the water quality or ecology at the site. Impacts from dumping have been found to be temporary and restricted to within the site boundary. The near shore location of the proposed site facilitates surveillance and monitoring and decreases the likelihood of sediment texture/chemistry changes resulting from disposal due to the similarity between the dredged materials and the sediments already at the disposal sites.

The EIS evaluated mid-shelf and shelf-break alternative sites using the general criteria and specific factors contained in the Ocean Dumping Regulations. Dredged material disposal has not occurred previously at the mid-shelf or shelf-break alternative site locations. There are significant dissimilarities between the physical and chemical characteristics of the dredged material sediments and sediments covering the mid-shelf or shelf-break regions. Altering the sediment texture and composition through the addition of finer coastal sediments may have a potential long-term adverse impact on the benthic infauna at the mid-shelf and shelf-break sites. Fishery resources are localized over the mid-shelf and shelf-break regions, especially in the vicinity of hard bottom areas and shelf-break areas. These hard bottom areas are unique habitats, support several species of commercially and recreationally impact finfish, and are sensitive to the effects of dredged material disposal. Thus, use of mid-shelf or shelf-break sites could result in a greater potential for interference with fishing activities. Moreover, use of offshore sites would be restricted to periods of calm weather and sea conditions because the hopper dredges cannot operate in rough seas.

The designation of the proposed dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Interested persons may participate in this proposed rule-making by submitting written comments within 30 days of the date of this publication to the address given above.

It should be emphasized that if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at the site. Before ocean dumping of dredged material at the site may commence, the Corps must also evaluate the proposed dumping in accordance with the criteria in section 227 of the Ocean Dumping Regulations. In any case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

G. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: August 3, 1987.

Lee A. DeHihns III,

Acting Regional Administrator, Region IV.

In consideration of the foregoing, Subchapter H of Chapter I of title 409 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) the words and coordinates:

Georgetown Harbor—33°11'18" N., 79°07'20" W.; 33°11'18" N., 79°05'23" W.; 33°10'38" N., 79°07'21" W.; 33°10'38" N., 79°07'21" W.

and by adding paragraph (b)(40) as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(40) Georgetown Harbor, South Carolina, Dredged Material Disposal Site—Region IV.

Location—33°11'18" N., 79°07'20" W.; 33°11'18" N., 79°05'23" W.; 33°10'38" N., 79°07'24" W.; 33°10'38" N., 79°07'21" W.

Size: 1 square nautical mile.
Depth: Average from 6 to 11 meters.
Primary Use: Dredged material.
Period of Use: Continuing use.
Restriction: Disposal shall be limited to dredged material from the Georgetown Harbor, SC area.

[FR Doc. 87-18317 Filed 8-12-87; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-3247-3]

Maine; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of Maine for final authorization, public hearing, and public comment period.

SUMMARY: The State of Maine has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Maine's application and has made the tentative determination that Maine's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to

grant final authorization to the State of Maine to operate its program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Maine's application for final authorization is available for public review and comment, and a public hearing will be held to solicit comments on the tentative determination if sufficient public interest is expressed.

DATES: If sufficient public interest is expressed in holding a hearing, a public hearing is scheduled for September 16, 1987.

EPA reserves the right to cancel the public hearing if sufficient public interest in holding a hearing is not communicated to EPA by telephone or in writing, by September 14, 1987. EPA will determine by September 14, 1987, whether there is sufficient interest to hold the public hearing. Maine will participate in the public hearing held by EPA on this subject if a hearing is held. All written comments on Maine's final authorization application must be received by September 14, 1987, unless a hearing is held in which case written comments must be received by September 14, 1987.

ADDRESSES: Copies of the Maine's final authorization application are available during normal business hours at the following addresses for inspection and copying by the public:

Maine Department of Environmental Protection Licensing and Enforcement Division, Ray Building, Station #17, Augusta, Maine 04333 (207) 289–2651.

U.S. EPA Headquarters, Library RM 211A, 401 M Street SW., Washington, DC 20460 (202) 382–5926.

U.S. EPA Region I, Library JFK Federal Building, Room 1500, Boston, Massachusetts 02203 (617) 565–3300.

Written comments on the application and written or verbal requests of interest in EPA's holding a public hearing on the Maine application must be communicated to Ken Chin, CT and ME Waste Management Branch, U.S. EPA, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, telephone: (617) 223–5904.

For information on whether or not EPA will hold a public hearing on the Maine's application, based upon EPA's decision that sufficient public interest was conveyed, write or telephone the contact person listed below after September 14, 1987.

If sufficient public interest is expressed, EPA will hold a public hearing on Maine's application for final authorization on September 16, 1987 at the Board of Environmental Protection Hearing Room, Hospital Street, Ray Building, 1st floor, Augusta, Maine.

FOR FURTHER INFORMATION CONTACT: Ken Chin, Connecticut and Maine Waste Management Branch, U.S. EPA, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, telephone: (617) 223–5904.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984 (HSWA). Two types of authorization may be granted. The first type, known as "interim authorization", is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (section 3006(c), 42 U.S.C., 6926 (c)). EPA's implementing regulations at 40 CFR 271.121–271.137 established a phased approach to interim authorization:

Phase I, covering the EPA regulations in 40 CFR Parts 260 through 263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase IIA covers general permitting procedures and technical standards for containers, tanks, surface impoundments, and waste piles. Phase IIB covers incinerator facilities, and Phase IIC addresses landfills and land treatment facilities. By statute, all interim authorizations expired on January 31, 1986. Responsibility for the hazardous waste program returned (reverted) to EPA on that date if the State had not received final authorization.

The second type of authorization is a "final authorization" that is granted by EPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6926(b)). States need not obtain interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1–271.23.

II. Maine

The State of Maine received Phase I interim authorization on March 18, 1981 and Phase II interim authorization, Components A, B and C on September 26, 1983. On March 1984, the State submitted to EPA a draft application for final authorization. EPA's comments on the draft application for final authorization were sent to the State in June 1984. EPA raised a number of issues concerning program's equivalency to the Federal program.

The State of Maine announced on January 9, 1985 that it intended to apply for final authorization and solicitied public comments on its draft application and provided opportunity for a public hearing. There were no public comments received nor was there a request for a public hearing, so a hearing was not held. On February 8, 1985 Maine submitted to EPA its official application for final authorization. On April 8 and May 23, 1985, EPA transmitted comments on the application to the State. EPA and the State worked to resolve certain programative requirements for authorization but were unable to settle all of these issues prior to a statutory deadline. The most significant issue was the State's ability to carry out timely and appropriate enforcement against violators. Therefore, because the State had not been granted Final Authorization by the deadline of January 31, 1986, responsibility for the Hazardous Waste program reverted to EPA as required by law.

During the program reversion period, from January 1986 to the present, EPA has continued to assess the capability of the State's program.

EPA has closely evaluated improvements in the capability of the Maine Department of Environmental Protection (DEP) to adminster a quality hazardous waste management program and believes the State will be capable of administering a quality RCRA program.

In particular, Maine has made great progress in its enforcement program through staff reorganization, development of a multi-year Compliance/Enforcement Strategy, better communications with Region I and general improvements in the timeliness and quality of its enforcement actions.

However, EPA has determined a need to continue improving the timeliness of State enforcement actions. Therefore, Region I and Maine DEP have negotiated a Letter of Intent that describes the specific measures the

State will take to improve its enforcement program.

EPA has reviewed Maine's official application and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Maine to operate its program subject to the limitations on its authority imposed by HSWA. Copies of Maine's application are available for inspection and copying at the location indicated in the "ADDRESSES" section of this notice.

EPA will consider all public comments on the tentative determination. Issues raised by those comments may be the basis for a decision to deny final authorization to Maine. EPA expects to make a final decision on whether or not to approve Maine's program by November 12, 1987, and will give notice of it in the **Federal Register**.

The notice will respond to all major comments received during the public comment period.

It is possible that the schedule for EPA's final decision could be changed if significant amendments are made to Maine's application in response to public comments. This is because 40 CFR 271.5(c) provides that if the State's application materially changes during EPA's review period, the statutory review period begins again upon receipt of the revised submission. The State and EPA may also extend the review period by agreement (see 40 CFR 271.5(d)).

III. Effect of HSWA on Maine's Authorization

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a State with Final Authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006 (g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Maine if final RCRA authorization is granted. To the extent the authorized State program is unaffected by the HSWA, the State program would operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce those portions of HSWA in Maine until the State receives authorization to do so. Among other things this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized.

Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision. Until that time the State may assist EPA's implementation of HSWA under a Cooperative Agreement.

Today's tentative determination does not include authorization of Maine's program for any requirement implementing HSWA. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published in a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Regulatory Flexibility Act

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

Executive Order 12291

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

List of Subjects in 40 CFR Part 271

Administrative practice and procedures, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

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

Date: July 13, 1987.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 87–18484 Filed 8–12–87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Parts 16 and 402

State Legalization Impact Assistance Grants (SLIAG)

AGENCY: Family Support Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to implement section 204 of Pub. L. 99–603, the Immigration Reform and Control Act (IRCA) of 1986. Section 204 of the Act establishes State Legalization Impact Assistance Grants (SLIAG) which are available to States. These grants may be used for reimbursement of or payments for the costs incurred by State and local governments in providing public assistance, public health assistance, and educational services to eligible legalized aliens as defined in the Act and this regulation.

DATES: Comments must be submitted on or before September 14, 1987.

ADDRESS: Please address comments to: IRCA Implementation Task Force, Family Support Administration, 330 Independence Avenue, SW., Room 5627, Washington, DC 20201, Telephone: 202–245–0562

Two weeks after the close of the comment period, comments and letters will be available for public inspection in Room 1229, 330 C Street, SW., Washington, DC 20201, Monday through Friday 9:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Norman L. Thompson, Chairperson, IRCA Implementation Task Force, Family Support Administration, 330 Independence Avenue, SW., Room 5627, Washington, DC 20201, Telephone: 202–245–0562.

SUPPLEMENTARY INFORMATION:

Section 204 of the Immigration Reform and Control Act of 1986 (Pub. L. 99–603), enacted on November 6, 1986, establishes State Legalization Impact

Assistance Grants (SLIAG) for States for fiscal year 1988 and for each of the three succeeding fiscal years. The purpose of SLIAG is to alleviate the financial impact on State and local governments that may result from the adjustment of immigration status under the Act of certain groups of aliens residing in the States, the District of Columbia, Puerto Rico, the Virgin Islands and Guam.

The legislative history of the Act indicates that Congress intended SLIAG funds to be used only for those additional State costs resulting from the passage of the Act, not for every cost related to meeting the needs of this eligible alien population. The legislative history also indicates that Congress did not expect the SLIAG appropriation to reimburse 100 percent of these additional costs.

SLIAG is not a new program in the usual sense. Rather, it is primarily a mechanism for providing funds for on-going State and local activities. SLIAG funds may be applied by States with approved applications to certain costs resulting from the legalization program that are associated with providing public assistance, public health assistance, and educational services to eligible legalized aliens. (These terms, which are defined by the Act and this regulation, are discussed below.)

In proposing this regulation, we have attempted to avoid as much as possible the need for State and local governments to establish new administrative mechanisms for this four-year funding source. We desire to implement SLIAG in a simple, straightforward manner providing for State flexibility while at the same time fulfilling the statutory requirements. We have consulted with representatives from State and local governments and the Comptroller General in developing this proposed regulation and will continue such consultations in developing the final regulation and in implementing the program.

Subpart A—Introduction

Section 201 of the Act, which adds new section 245A to the Immigration and Nationality Act (INA), creates a program of legalization under which the status of certain aliens who have resided unlawfully in the United States since prior to January 1, 1982, may be adjusted to that of lawful temporary resident, and eventually to that of lawful permanent resident. New INA section 245A(h) provides that for five years from the date of adjustment to lawful temporary resident status, an alien is barred from participation in: (1) Need-based Federal programs of financial assistance to be identified by the Attorney General by regulation, including Aid to Families with Dependent Children (AFDC); (2) Medicaid (with exceptions noted below); and, (3) Food Stamps. Aged, blind or disabled individuals and certain Cuban-Haitian entrants are excepted from the bar to eligibility (although these individuals must still meet the eligibility requirements of the various programs to which they might apply). Also, the law affords limited Medicaid benefits to otherwise eligible aliens needing emergency services or services for pregnant women and full Medicaid benefits to children under 18. Finally, section 201 of the Act sepcifies certain programs, including Supplemental Security Income (SSI), which the Attorney General may not designate as "programs of financial assistance," i.e., programs from which aliens legalized under this section cannot be barred by virtue of their immigration status.

Section 302 of the Act adds new section 210 to the INA to provide for granting lawful temporary resident status and eventually lawful permanent resident status, to certain aliens who performed seasonal agricultural work in the United States during a specified period of time ("Special Agricultural Workers," or "SAWS"). Aliens lawfully admitted for temporary residence under this section are to be regarded as aliens lawfully admitted for permanent residence for purposes of laws other than immigration, and therefore will be eligible to participate in many Federal programs. The are, however, barred from receiving AFDC for five years from the date they are granted temporary resident status. Those barred from AFDC by this section, but who would otherwise be eligible, will be provided access to the Medicaid program within the same limits as apply to lawful temporary residents under section 245A of the INA.

Section 303 of the Act adds new section 210A to the INA to provide for the admission as lawful temporary residents of additional aliens to the United States to meet a shortage of agricultural workers, beginning in fiscal year 1990 ("Replenishment Agricultural Workers," or "RAWS"). Aliens granted lawful temporary resident status under this section generally will be barred from participation in need-based Federal assistance programs, other than Food Stamps, for five years from the date they obtain temporary resident status, except that the bar does not apply to aliens who are aged, blind, or disabled, and the same exceptions which permit access to Medicaid under section 245A(h) of the INA are applicable to this group of aliens. Notwithstanding the aforementioned bar to program participation, aliens lawfully admitted for temporary residence under this section are to be regarded as aliens lawfully admitted for permanent residence for purposes of laws other than immigration.

The Department will issue separate guidelines explaining these eligibility provisions as they affect individual programs within its jurisdiction.

Section 204 of the Act appropriates funds for each of the fiscal years 1988 through 1991 for State Legalization Impact Assistance Grants to reimburse State and local governments for part of the costs of programs of public assistance, programs of public health assistance, and educational services provided to "eligible legalized aliens." The term "eligible legalized alien," as defined in sections 204(j) and 303(c) of the Act, means an alien who has been granted lawful temporary resident status under section 245A, 210, or 210A of the INA, but only until the end of the five year period beginning on the effective date of such adjustment. States may use SLIAG funds in providing specified types of assistance and services to such aliens under section 204(c)(1) of the Act (see "Use of Funds", below).

The amount of SLIAG funds available to the States in each year is, generally stated, $1 billion minus an amount termed the "offset". The offset is defined in section 204(a) of the Act as the total of estimated Federal expenditures for programs of financial assistance, for Food Stamps, and for Medicaid for which aliens legalized under new section 245A of the INA are eligible because of an exception to the general provisions of 245A(h) making them ineligible for such benefits. Federal expenditures under the SSI program and under the other programs listed at section 245A(h)(4) are not included in the offset. In addition, the Department interprets section 210A(d) of the INA to provide that Federal expenditures for programs of financial assistance and Medicaid to eligible aliens legalized under section 210A of the INA, pertaining to RAWs, are also to be included in the offset. However, expenditures for Federal programs providing assistance and services to SAWs are not included in the offset amount.

For fiscal year 1988, the amount of the offset is set at $70 million by the Act. Federal costs in excess of this amount for fiscal year 1988 must be recovered by adding them to the estimated offset

amount applicable to fiscal year 1989. Before allotment to the States, the appropriation is further reduced by amounts reserved for the Federal administrative costs of carrying out section 204. The Department estimates that approximately $928 million will be available for grants to States in FY 1988 and $643 million in FY 1989.

Subpart B—Use of Funds

Allowable Use of Funds

General

The expenditure of SLIAG funds must be associated with providing specific types of assistance and services to eligible legalized aliens. The Act allows States to use SLIAG funds to reimburse the costs of providing public assistance and public health assistance and to make payments to State educational agencies for certain supplemental educational services provided to assist eligible legalized aliens granted temporary resident status under sections 245A, 210, or 210A of the INA ("legalization program.")

In addition, section 204(c) of the Act allows States to use SLIAG funds to reimburse the costs of public health assistance provided to aliens who are *applying* in a timely manner for adjustment of status under section 245A, as well as costs associated with aliens granted status adjustment under section 245A. For this purpose, an alien is considered to be applying for adjustment to lawful temporary resident status if he/she has obtained the medical examination required by INS as a precondition to application for status adjustment or has completed an application for adjustment at an INS facility or that of a qualified designated entity authorized by INS to receive applications. We believe that SLIAG funds may *not* be used to provide public health assistance to those applying for adjustment under section 210 (SAWs) or 210A (RAWs).

The Act specifies the types of assistance for which SLIAG funds may be used: Public assistance, public health assistance, or educational services. Section 204(j) of the Act requires that public assistance and public health assistance be generally available to needy individuals residing in the State and receive funding from units of State or local government. However, unlike public assistance and public health assistance, educational services for which SLIAG funds are used do not have to be generally available to individuals residing in the State.

In consulting with State and local officials on this proposed regulation, several individuals asked if using SLIAG funds to assist aliens to apply for status adjustment (e.g., pay their application fees) or to provide assistance to entites which assist aliens in applying for status adjustment under the Act (qualified designated entities) would be allowed. We see no basis in the Act which would permit such a use. The Act restricts the use of SLIAG funds to providing public assistance, public health assistance, and educational services, as defined by the Act and this regulation, to eligible legalized aliens. Providing "assistance" to an alien applying for status adjustment or to qualified designated entities would not generally fall under any of these three permissible uses of SLIAG funds. Further, with the exception of educational services, SLIAG funds may be used only for programs or activities which are generally available to the citizens of a State. The use of funds to assist aliens applying under the Act would be inconsistent with this condition. Finally, with the exception of public health assistance, SLIAG funds are available only with respect to the costs of aliens who *have received* adjusted status under the Act. By definition, assistance provided to aliens applying for status adjustment (except for public health assistance) is not an allowable use of SLIAG funds.

Public Assistance

Section 204(j) of the Act provides that the term "programs of public assistance" means programs within a State which: Provide cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals; are generally available to needy individuals; and receive funding from units of State or local government. We propose to define "other assistance" to include two basic categories of assistance. First, it includes assistance, other than cash or medical, that meets the criteria of public assistance described above, and is otherwise designed to meet basic subsistence needs. Such assistance might include payment of a household's energy bill, housing assistance, etc. However, "other assistance" may not include assistance under Federal programs of financial assistance as such programs are identified by the Attorney General under section 245A(h)(1) of the INA. Second, it includes assistance and services that are provided as a condition to an individual's participation in a program providing cash, medical, or other assistance. Such assistance might include mandatory employment services or work programs required as part of a general assistance program.

Public Health Assistance

Section 204(j) of the Act provides that the term "programs of public health assistance" means programs which receive funding from units of State or local government, are generally available to needy individuals residing within the State, and provide public health services. An illustrative list of what may be included in public health services is included in section 204(j)(3) of the Act (e.g., treatment for tuberculosis) and in the proposed definition of public health assistance in this Subpart.

We realize that some aliens (e.g., those aliens having positive tests for communicable diseases even through they have been treated in the past) will be referred by INS-designated Civil Surgeons to public health departments for health follow-up and medical clearance reasons in addition to those who may need treatment. In such instances, the health department may have to verify that treatment has been adequate. Therefore, we believe the SLIAG funds are not limited to "treatment" per se, but may be used for public health services which meet the statutory requirements of the Act and are provided as a result of the required medical examination conducted by an INS-designated Civil Surgeon as part of the application requirements for status adjustment. (See 8 CFR Part 234 and § 245a.2(i), 52 FR 16194 and 16212, May 1, 1987, pertaining to medical examination of aliens.)

Educational Services

Section 204(c) of the Act provides that States may use SLIAG funds to make payments to State educational agencies for the purpose of assisting local educational agencies in providing educational services for eligible legalized aliens. The Act itself does not specifically define educational services. However, the Act incorporates the definitions and provisions of the Emergency Immigrant Education Act of 1984 (EIEA) (20 U.S.C. 4101) by reference. We believe the Act, and the provisions of EIEA made applicable to it, authorize the States to use SLIAG funds to assist local educational agencies in providing a broad, but not unlimited, variety of educational services to eligible legalized aliens.

First, we are proposing to allow States to use SLIAG funds to assist local education agencies in providing certain eligible legalized aliens in elementary and secondary schools with supplementary educational services, including: English language instruction,

bilingual services, and special materials and supplies necessary to enable eligible legalized aliens to achieve a satisfactory level of performance in school; additional basic instructional services and attendant costs directly attributable to the presence of eligible legalized aliens in the school; and, essential in-service training for personnel who will be providing supplementary educational services or additional basic instructional services. In addition, SLIAG funds may be used to provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations. Our proposed regulatory language very closely tracks the language of the EIEA and the Act.

Second, we are proposing to allow States to use SLIAG funds to provide English language and other programs designed to enable eligible legalized aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the INA. That section requires that for adjustment to permanent status under section 245A of the INA, an alien, unless exempted, must demonstrate that he/she has a (1) minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States or (2) is satisfactorily pursuing a course of study, recognized by the Attorney General, to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Consistent with this requirement and section 204(c)(3)(D) of the Act, we have provided that SLIAG funds may also be used to assist States in providing services designed to enable eligible legalized aliens, regardless of age, to meet this requirement. We are not limiting the use of SLIAG funds to courses of study recognized by the Attorney General. However, we caution States that if an alien intends to meet the requirements of section 245A(b)(1)(D)(i) of the INA through enrollment in a course of study, rather than demonstrating that he/she already has a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), such course must be approved by the Attorney General. (See INS rules at 8 CFR 245a.3(b)(4) and (5), 52 FR 16215, May 1, 1987.)

State Matching Funds

We have provided that States may use SLIAG funds for the non-Federal share in Federal matching programs requiring a State match.

Limitations on Use of SLIAG Funds

SLIAG funds used for educational services are subject to a $500 annual cap per eligible legalized alien. Section 606(b)(1) of the EIEA, as incorporated in the Act, limits the amount of funding provided by each State to $500 per eligible legalized alien participating in educational services receiving funds. The House Committee on Education and Labor specifically stated its intention that the effect of incorporating the EIEA was to place a $500 cap on the Federal contribution for each child and adult.

Sections 602 and 607 of the EIEA, as incorporated in the Act, limit the use of SLIAG funds to eligible legalized aliens, regardless of age, who are enrolled in primary or secondary schools, who were born outside the United States, and who have attended school in this country for fewer than three full academic years. Section 204(c)(3) of the Act further allows for the provision of supplemental educational services to adults. We interpret this to allow States to provide supplementary educational services designed to ensure that an adult eligible legalized alien who is enrolled in a formal course of instruction, not restricted to elementary or secondary education, may attain a satisfactory level of performance. Such services may be provided through local educational agencies and other public and private nonprofit organizations. We do not interpret this section as imposing three-year enrollment limitation on adult supplementary educational services.

Section 204(f) of the Act provides that payment under SLIAG shall not be made for costs to the extent those costs are otherwise reimbursed or paid for under other Federal programs. In other words, States may not use SLIAG funds for costs associated with public assistance, public health assistance, or educational services to the extent such costs are already being reimbursed or paid with Federal funds. Thus, the amount of SLIAG fund a State educational agency may use to provide educational services to eligible legalized aliens is reduced by the amount of Federal funding otherwise available to provide such services to those aliens. We are working with the Department of Education to develop a list of programs for which Federal funds must be included in calculating the $500 cap.

We propose to prohibit the use of SLIAG funds for reimbursing costs associated with the medical examinations required of aliens who apply for adjustment to lawful temporary resident status. Section 245(d)(2)(C) of the INA states that an applicant must undergo a medical examination ". . . at the alien's expense."

Legislative history indicates clear Congressional intent that the fee for the medical examination be paid by the applicant: "This medical exam offers an ideal opportunity, at no cost to the Federal government, to achieve some basic health objectives." H.Rep.No. 682, Part 4, 99th Cong., 2d Sess. 10 (1986). In this regard, we are interpreting this provision consistent with INS regulations published at 8 CFR 245a.2(i) (52 FR 16212, May 1, 1987), which state that the medical exam must be ". . . at no expense to the government."

Use of SLIAG Funds for Costs Incurred Prior to October 1, 1987

Section 204(a)(1) of the Act appropriates funds for SLIAG for fiscal year 1988 and for each of the three succeeding fiscal years. We interpret the Act as providing funds to meet costs incurred by State and local governments beginning in fiscal year 1988, notwithstanding the fact that the INS began taking applications for legalization in FY 1987. However, we believe that two exceptions to the general rule that SLIAG funds may be used only for costs incurred in FY 1988 and succeeding fiscal years are warranted.

First, we propose to allow States to use SLIAG funds to reimburse fiscal year 1987 costs closely associated with the implementation of the SLIAG program, i.e., administrative start-up costs. We believe that it was Congress' intent that State procedures and fund accounting mechanisms be in place early in FY 1988 to receive SLIAG funds. Clearly, to implement this, States will incur planning and administrative costs in FY 1987.

Second, we propose to allow States to use SLIAG funds to reimburse otherwise allowable costs incurred in fiscal year 1987 for providing public health assistance (1) to individuals whose status has been adjusted under section 245A or 210 of the INA and (2) to individuals applying to become eligible legalized aliens under section 245A, but not under section 210, of the INA. Section 204(c) of the Act extends reimbursement of public health costs to aliens applying for status adjustment under section 245A of the INA. Recognizing that aliens would be applying for status adjustment beginning on May 5, 1987, we believe the Act contemplates the reimbursement of State and local costs associated with providing public health assistance to those applying, and to those whose status is subsequently adjusted, under

section 245A. Since the Act limits the extension of public health assistance to those who are adjusting under section 245A, we do not believe costs associated with those applying under section 210 are permissible uses of SLIAG funds.

Subpart C—Administration of Grants

General Provisions

HHS regulations governing the administration of grants apply to all grant awards issued by the Department, with the specific exception of those statutorily designated as block grants. We are proposing, therefore, to apply the provisions of 45 CFR Part 74 (Administration of Grants) to the funds made available under SLIAG. We believe that use of Part 74 for SLIAG is warranted and will not significantly affect the procedures of State and local governments in implementing SLIAG.

Fiscal Control

States must have fund accounting systems in place which allow SLIAG funds to be traced from drawdown to allowable expenditures under this Part. We are not requiring that a State or recipient be able to trace SLIAG funds from drawdown to an expenditure to or on behalf of individual, identifiable eligible legalized aliens. Rather, we are proposing to allow States simply to track SLIAG funds from drawdown to disbursement to a program or activity in which allowable SLIAG-related costs in a fiscal year exceed or equal the amount of SLIAG funds provided to the program or activity in that fiscal year.

For costs associated with public assistance, States would be permitted to demonstrate the amount of their SLIAG-related costs: By determining the amount of funds actually provided to specifically identifiable eligible legalized aliens (as is currently done for refugees under the cash and medical assistance portion of the Refugee Resettlement Program); or by determining the amount associated with eligible legalized alien participation through the use of a statistically valid sample of public assistance recipients.

For costs associated with public health assistance, States would be permitted to demonstrate the amount of their allowable SLIAG-related costs by either of the above two methods or by multiplying the ratio of the number of eligible legalized aliens in the State to the State's total population by the public health activities that are reimbursable under SLIAG. For example, if 5 percent of the State's population were eligible legalized aliens, we would accept that 5 percent of the costs of public helath assistance were associated with eligible legalized aliens and therefore claimable under SLIAG. States may also demonstrate SLIAG-related costs by use of other reliable methods of estimation, subject to subsequent Federal review. We recommend that States consult with the Department before implementing an alternative method.

For costs associated with education, the State must be able to demonstrate that services provided are predominantly associated with eligible legalized aliens.

Eligible legalized aliens receiving public assistance benefits may be characterized as public charges by INS which may affect their eligibility for status adjustment. Believing eligible legalized aliens will be hesitant to apply for public assistance benefits, we have not proposed the use of the State's percent of eligible legalized aliens as a method of demonstarting allowable SLIAG costs.

SLIAG and Program Administrative Costs

The Act clearly anticipates that States may use SLIAG funds for general and program administrative costs. SLIAG administrative costs include: Planning (including consulting with local public officials); preparing the application; auditing SLIAG funds; and allocating, tracking, monitoring and reporting funds among programs and jurisdictions. Neither the Act nor our proposed regulation imposes a limit on this use. However, we expect that State and local governments will not need to establish substantial new bureaucratic mechanisms to administer this temporary funding source. We intend to assess carefully State and local SLIAG administrative expenditures as part of our program reviews.

In addition to SLIAG administrative costs, State and local governments may use SLIAG funds for administrative costs associated with those programs and activities which receive SLIAG funds under the State's approved application. In calculating the amount of administrative costs for a particular program or activity, we will accept the use of the percentage of participation by eligible legalized aliens in the program (or the percentage of program costs incurred on behalf of eligible legalized aliens) multiplied by the program's total administrative costs (less any amount related to general SLIAG administrative costs, above). For example, if 10 percent of a program's benefits were associated with eligible legalized aliens, the State may claim 10 percent of the program's administrative costs (less general SLIAG administrative costs) under SLIAG. Desiring to maximize State flexibility, we have provided that States may use alternative methods of determining program administrative costs chargeable to SLIAG. However, we will carefully assess part of our program reviews any administrative costs determined by an alternative method.

Repayment

Section 204(e)(2)(B) of the Act requires that each State repay to the United States any amounts found not to have been expended in accordance with the provisons of section 204. Expenditures not subject to SLIAG reimbursement include such things as: Expenditures on behalf of individuals who do not meet the criteria for an eligible legalized alien or whose status has been terminated by the INS; administrative costs which do not meet the applicable requirements governing the State or local program; and any expenditure which is not in accordance with the provisions of section 204 of the Act, this regulation or the State's approved application.

The allowability of SLIAG expenditures would be subject to the determination of the ulitimate allowability of expenditures under the program in question. For example, suppose that a State calculated that it had $10,000 in allowable SLIAG-related costs in its State-funded general assistance (GA) program and reimbursed those costs with $10,000 in SLIAG funds. Subsequently, an audit of its GA program reveals that $2,000 of the $10,000 costs were unallowable. Thus, $2,000 of SLIAG funds are associated with unallowable costs and are subject to repayment to the Federal government.

Appeals

All appeals will be handled by the Department's Grant Appeals Board and will be governed by the rules set forth at 45 CFR Part 16.

Time Period for Obligation and Expenditures of Grant Funds

Funds allotted to a State for a particular fiscal year and remaining unobligated by the State at the close of the fiscal year shall remain available to the State in subsequent years subject to two conditions. First, if a State carries unobligated funds forward, it must inform the Secretary as part of the report required under Subpart F. Second, the Act provides that SLIAG funds may not be used after September 30, 1994. We interpret this to mean SLIAG funds must be obligated by this date.

We are proposing that recipients must liquidate obligations within 12 months of the end of the fiscal year in which the

obligation is made. However, we recognize that situtions may exist where this is not possible (e.g., obligated funds are the subject of litigation and may not be expended). In such a case, the State should notify the Department of the circumstances involved and request that the time period for liquidation be extended.

Subpart D—State Allocations

Determination of Allocations

General Requirements

Section 204(b) of the Act requires the Secretary to allot SLIAG funds among States with approved applications according to a formula prescribed by the Secretary in regulation which takes into account factors listed below.

(A) The number of eligible legalized aliens residing in the State in that fiscal year;

(B) The ratio of the number of eligible legalized aliens in the State (1) to the total number of such aliens in all the States in that fiscal year and (2) to the total number of residents of that State;

(C) The amount of expenditures the State is likely to incur in that fiscal year in providing assistance to eligible legalized aliens for which reimbursement or payment may be made under SLIAG (referred to as SLIAG-related cost estimates);

(D) The ratio of the amount of such expenditures in the State to the total of all such expenditures by all States;

(E) An adjustment for the difference in previous years between the State's actual expenditures (described in subparagraph (C)) incurred and the allotment provided the State under SLIAG for those years; and,

(F) Such other factors as the Secretary deems appropriate to provide for an equitable distribution of SLIAG funds.

The ratio contained in (B)(1), by necessity, includes the absolute number of eligible legalized aliens contained in (A), and the ratio contained in (D), by necessity, includes the absolute State expenditures, factor (C). The Department is proposing no additional factors under factor (F) at this time. Concluding that factor (B)(1) incorporates (A) and factor (D) incorporates (C), we have constructed the allocation formula using the ratio factors in (B)(1) and (D). We believe that using these ratio factors satisfies the statutory requirements that the formula take into account the absolute number of eligible legalized aliens in each State and the absolute level of estimated State expenditures as well as the indicated ratios. In addition to these two factors, the proposed allocation formula will take into account the ratio of eligible legalized aliens in a State to the State's population, and for fiscal years 1990 and 1991, the difference between a State's actual SLIAG-related costs in previous years and its allotments in those years. Descriptions of these factors and data sources follow.

Data Sources

Eligible Legalized Aliens

The Act permits the Secretary to estimate the number of eligible legalized aliens on the basis of such data as he deems appropriate. When calculating SLIAG allocations, we propose to use the best data available from INS in determining the ratio of the number of eligible legalized aliens in a State to the total number of such aliens in all States. In general, we will use data based on the actual number of aliens participating in the legalization program if such data are available. We will update this information each time we calculate State allocations.

Estimates of SLIAG-Related Costs

The allocation formula must take into account estimates of the SLIAG-related costs that State and local governments are likely to incur. For the initial FY 1988 allocation, we propose to use estimates prepared by the Department of the relative costs each State is likely to incur in providing public assistance, public health assistance, and educational services to eligible legalized aliens. We propose to make such estimates based on data published by the Bureau of the Census in "Governmental Finances, 1984–85" (Publication GF85 No. 5) or more recent data when it becomes available. This document provides data on State and local government expenditures for education, welfare and health-related activities. Estimates for public assistance and public health assistance costs or territories eligible for SLIAG funds are based on the 1986 Statistical Abstract for the United States and data supplied by the Public Health Foundation. (We regard the territorial cost estimates in particular to be preliminary, and intend to continue to refine these estimates. We welcome suggestions for improving these estimates.) By converting these expenditures into per capita amounts and weighting these amounts by the number of eligible legalized aliens in each State, we propose to estimate the amounts States can be expected to expend in providing SLIAG-allowable public assistance and public health services and benefits to eligible legalized aliens.

In order to estimate SLIAG-related costs for public assistance and public health assistance, we propose to convert these expenditures into per capita amounts and to weight those per capita amounts by the number of eligible legalized aliens in each State. For purposes of providing the illustrative allocations shown in Appendix A to this proposed rule, we have estimated total SLIAG-related costs by adding to the public assistance and public health estimates described in the previous paragraph an amount equal to $500 per eligible legalized alien to account for SLIAG-related education costs—the maximum amount that may be paid for education costs under SLIAG.

We have not yet been able to devise a satisfactory method of estimating the amount of SLIAG-related education costs State and local governments will incur as a result of the passage of the Act. We expect that actual SLIAG-related education costs will be substantially less than $500 times the number of eligible legalized aliens in a State—the amount we have included in the calculation of tentative initial FY 1988 allocations shown in Appendix A. Costs incurred by State and local governments for the supplementary educational services allowed by the Act will be largely discretionary and will be influenced by the amount of SLIAG funds allocated to a State. In order to be eligible for legalization, aliens (except those applying for special agricultural worker status) must have been in the United States in excess of five years. Many aliens will speak English when they enter the country or will have acquired English when they enter the country or will have acquired English language skills during the time they were here. Special agricultural workers are exempt from the English proficiency requirements for adjustment to permanent resident status, reducing the need for expenditures for that purpose. In addition, the Act imposes several limitations on the use of SLIAG funds for education, including a requirement that elementary and secondary school students for whom SLIAG funds are used must have been born outside the United States and must have been enrolled in school in any State for fewer than three full academic years. Thus, most children of eligible legalized aliens will not be countable in terms of educational services provided under SLIAG. Further, SLIAG funds are available only for supplementary educational services designed to ensure that an eligible legalized alien may obtain a satisfactory level of performance in school or other formal

course of instruction. Other than for costs associated with teaching the English-language and citizenship skills required for adjustment to permanent resident status, SLIAG funds are not available for the costs of basic instruction.

We intend to develop better estimates of SLIAG-related education costs and to incorporate those estimates in the actual allocation of SLIAG funds. We encourage commenters to suggest appropriate methodologies for estimating SLIAG-related education costs.

We propose to use Federal data for computing initial FY 1988 allocations because we expect that little data will be available for States to estimate SLIAG-related costs that State and local governments will incur as a result of the passage of the Act. At the time a State will have to submit its application containing such esimates for FY 1988, it will not know the number of eligible legalized aliens residing in the State, their socio-economic characteristics, or their potential use of public assistance programs. (Eligible legalized aliens who participate in public cash assistance programs may adversely affect their eligibility for status adjustment under the Act and INS regulations.) Therefore, we have proposed to use cost estimates based on Federal data, as described above, which employ a consistent estimation methodology across States. While we propose to use Federal estimates of SLIAG-related costs for purposes of determining initial FY 1988 allocations, States will nonetheless have to submit estimates of the SLIAG-related costs which the State and each locality is likely to incur in FY 1988 as part of their FY 1988 applications. This is a statutory requirement. [See section 204(d)(2)(B) of the Act.]

We will provide States an opportunity to submit voluntary updated estimates of SLIAG-related costs for use in calculating final FY 1988 allocations. These voluntary submissions would be due by June 1, 1988, and would contain documented, revised estimates of SLIAG-related costs which the State incurred in FY 1987 and expects to incur in FY 1988. By the time these voluntary reports would be due, we expect that States will have some actual experience from which to project participation rates, the types of services and benefits that may be received by ELAs, and the unit costs of providing those benefits and services. Thus, States will have a considerably better basis for estimating SLIAG-related costs. The information contained in these reports would be used by the Department in calculating final FY 1988 allocations if it met the criteria specified in § 402.52 regarding the content and review of these voluntary submissions. In addition to asking for formal comment through this proposed rulemaking, we intend to consult with States and other entities on an on-going basis concerning the development of reliable and consistent cost data, as discussed below.

Beginning in FY 1989, we propose to base SLIAG-related costs on estimates of such costs provided by all States as part of their annual applications. We have not burdened States with definitions, methodologies, or procedures for estimating such costs. However, we are aware of some of the difficulty surrounding the development of State estimates of SLIAG-related costs, e.g., developing consistency of definitions and methodology among States.

We believe that it is in the interest of States as well as of the Department that we continue to consult with States to address and resolve problems associated with the development of this data and to promote accurate, comparable estimates of SLIAG-related costs. Section 204(i) of the Act requires that the Secretary consult with representatives of State and local government in developing regulations and guidelines for implementing SLIAG. We have held extensive consultations with State and local officials and their representatives. We intend to continue to do this throughout the implementation of the program. These on-going consultations will focus on resolving policy issues and developing such common assumptions and methodologies for estimating SLIAG-related costs as are possible without imposing additional reporting requirements on States.

Ratio of Eligible Legalized Aliens to State Population

The Act requires that the allocation formula take into account the ratio of the number of eligible legalized aliens in a State to the State's population. Estimates on the number of eligible legalized aliens by State will be based on data from INS as described above. Estimates of State population will be based on current estimates from the Department of Commerce.

In applying this factor, we would consider only States that have higher than average concentrations of eligible legalized aliens, as measured by the ratio of eligible legalized aliens to State population. (Based on the preliminary data shown in Appendix A, 13 States have higher than average concentrations of eligible legalized aliens.) We would distribute funds under this factor in proportion to a State's share of "excess" eligible legalized aliens. We would compute "excess" eligible legalized aliens by comparing the number of eligible legalized aliens in the State to the number that would have been in the State if the Concentration of eligible legalized aliens in that State were equal to the average for all States.

Difference Between Actual SLIAG-related Costs and Allotments

The formula for FY 1990 and FY 1991 also would consider the difference between States' actual SLIAG-related costs, as reported pursuant to § 402.51 of this regulation, and their allotments for fiscal years 1988 and 1989, respectively.

Allocation Formula

In devising an allocation formula, we sought a formula that provided a fair distribution of grant funds among States and that considered all the factors required by the Act. We also sought a formula that relied as much as possible on objective and verifiable data and that recognized that decisions made by one State would affect funding levels in other States.

The primary purpose of SLIAG is to offset certain costs State and local governments incur as a result of the Act. However, States can affect cost in setting program benefit levels and eligibility criteria, by electing to exclude eligible legalized aliens from certain programs (pursuant to section 245A of the INA), and by decisions on the amount of SLIAG funds to expend on education (pursuant to section 204(c) of the Act). Individual State decisions on these issues would influence the amount of funds the State received, as well as the amount of funds received by other States.

In addition, the Act lists the number of eligible legalized aliens and the ratio of such aliens to the State's population as factors to be taken into account separately from SLIAG-related costs. By including the ratio of the number of eligible legalized aliens to the State's population as a factor in the Act, we assume that Congress believed that States with higher ratio would have relatively higher SLIAG-related costs. However, we have been unable to find any empirical evidence to support giving additional funds to States based on this ratio. In addition, to the extent that States with higher ratios had relatively higher costs, those costs would be reflected in the SLIAG-related costs included in the proposed formula. However, the Act requires that the formula take this factor into account.

Because the factor appears to us to be redundant, we have given it minimal weight—1 percent.

We recognize that the number of eligible legalized aliens, based on data provided by INS, would be the most objective and reliable data available of all the factors listed in the Act. However, Allocations, determined under a formula that gave predominant weight to this factor would result in an essentially per capita distribution of funds and would not reflect differences in cost level among States.

Consequently, we are proposing a formula that gives relatively equal weight to costs and to the eligible legalized alien population with only minimal weight to the ratio of eligible legalized aliens to State population. We believe the proposed formula is responsive to differences in costs likely to be incurred by States, yet provides a base level of funding to each State independent of cost-related decisions made by other States.

In addition, our proposed formula recognizes that the distribution of eligible legalized aliens may change over time as the legalization program progresses. (Applications for legalization under section 245A will be taken through May 4, 1988, and those under section 210 through November 30, 1988. Final determinations of the number of aliens who qualify for status adjustment will take some time after the close of the application period. In addition, we expect the number of eligible legalized aliens who remain in legal status to change as some lawful temporary residents fail to qualify for adjustment to permanent resident status.) We believe that the distribution of eligible legalized aliens among States would be subject to the largest variation during FY 1988. Therefore, we have proposed a two-step allocation process in that year, as described below.

The allocation formula we are proposing has four slightly different variations, reflecting changes in the availability of reliable data, as discussed below. Each variation considers all the factors required by the Act. The proposed allocation formula takes the following form:

—50 percent based on factors related to a State's eligible legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher than average ratios of eligible legalized aliens to total population, based on the proportional number of such aliens relative to the average for all States.

—50 percent based on the ratio of the SLIAG-related costs a State is likely to incure to the total of such costs for all States. In FYs 1990 and 1991, up to 5 percent of the funds will be distributed based on the difference between actual SLIAG-related costs in previous fiscal years and States allotments in those fiscal years.

Described below, by fiscal year, are the four variations of the allocation formula: Initial FY 1988; Final FY 1988; FY 1989; and, FY 1990 and FY 1991.

FY 1988 Initial Allocations

In FY 1988, we propose to make initial allotments at the beginning of the fiscal year using 50 percent of the funds available for grants to States—approximately $464 million. Initial FY 1988 allocations will be based in part on Federal estimates of the relative SLIAG-related costs States are likely to incur, as discussed above in the section on data sources. We will allot to States the full amount of their initial allocation during the first three quarters of FY 1988. We expect that initial allotments will be made available in equal quarterly installments.

Illustrative initial allocations for FY 1988 are shown in Appendix A. These illustrative allocations are calculated using estimates of the number of eligible legalized aliens provided to the Department by INS. We plan to use actual counts of aliens participating in the legalization program when we calculate preliminary FY 1988 allocations this fall if such data are available. Also, the number of eligible legalized aliens is a factor in the Federal estimates of SLIAG-related costs. These estimates will also be updated when we compute actual initial FY 1988 allocations. Thus, initial FY 1988 allocation amounts will likely differ from those shown in Appendix A. The illustrative allocations in Appendix A are based on the total amount of SLIAG funds that we will make available for grants to States for the initial FY 1988 allocations, i.e., $464 million. This is one-half of the total amount we estimate will be available for grants to States in FY 1988.

Final FY 1988 Allocations

Final allocations for FY 1988 would be determined at the beginning of the fourth quarter in the same manner described above, with two exceptions. These final allocations would be determined using updated figures available from INS on the number of aliens participating in the legalization program in each State. They will also be based on updated estimates of SLIAG-related costs, as provided to the Department in voluntary reports to be submitted by States by June 1, 1988 (pursuant to § 402.52 of this proposed regulation). In the event that a State does not submit the voluntary report on SLIAG-related costs, we will use Federal estimates of such costs. These estimates will be derived in the same manner as the Federal estimates used to determine initial FY 1988 allocations. However, we will update these Federal estimates to reflect more current data on the number of eligible legalized aliens in each State.

We propose to calculate States' final FY 1988 allocations based on 100 percent of the funds available for grants to States—approximately $928 million. The Secretary would make a final allotment to a State if the State's initial allotment (i.e., its allotment for the first three quarters of FY 1988) were less than its final allocation. To do this, we propose to compute the difference between a State's initial allotment (for the first three quarters of the fiscal year) and its final allocation determined by the formula described above. We would sum these differences for those States whose final allocations exceeded their initial allotments. Each such State would receive funds from the remaining 50 percent (the amount reserved for allotment in the fourth quarter) on the basis of the State's proportional share of the total difference between initial allotments and final allocations. However, no State's total allotment for FY 1988 would be reduced from its initial allotment.

The adjustment described above would bring each State closer to its final allocation, but would not be intended necessarily to bring all States up to the full level of their final allocation. In the event that some portion of the final allocation amount of 50 percent remained after the adjustment calculation had been performed (i.e., all States had been brought to their full allocation level), the surplus funds would be distributed on the basis of the final allocation formula. If a State's allotment for the first three quarters exceeded its final allocation, it would receive no additional allotment in the fourth quarter.

FY 1989 Allocations

The allocation formula for FY 1989 is the same as the one used to determine final FY 1988 allocations, except that we will use the estimates of SLIAG-related costs included in States' applications, rather than Federal estimates.

FY 1990 and 1991 Allocations

The proposed formula for distributing funds to States for FY 1990 and FY 1991 differs only slightly from the one used for final FY 1988 and FY 1989 allocations. Beginning in FY 1990, the actual costs which States incurred in providing public assistance, public health assistance, and educational services to eligible legalized aliens will be available from States' reports, as required under § 402.51 of this regulation. In FY 1990 and FY 1991, the proposed formula adjusts for differences between States' actual SLIAG-related costs in previous years and their allotments in those years. (In FY 1990, we will adjust for differences between States' actual SLIAG-related costs incurred in FY 1988 and their allotments for that year. Similarly, in FY 1991, we will adjust for differences between FY 1989 actual costs and FY 1989 allotments.) In the event that a State failed to submit the report required by § 402.51, we would consider the State to have incurred no SLIAG-related costs for the fiscal year in question. That State would not share in the funds allocated based on the difference between actual costs and its allotment.

We propose to sum the differences between States' actual SLIAG-related costs and their allotments for all States where such costs exceeded their allotments. We would divide the difference for each such State by the total of such differences for all such States. This factor would account for up to 5 percent of the funds available for grants to States. In the event that the sum of the differences between actual SLIAG-related costs and State allotments, for States where costs exceeded allotments, was less than five percent of the funds available for grants to States, distribution of the balance would be determined by States' share of estimated SLIAG-related costs for the year for which application is being made.

Alternative Allocation Method Considered

We considered an alternative approach to allocating SLIAG funds. Under this alternative, we would have treated the four years during which SLIAG funds will be made available as a single period and would have made a "rolling adjustment" of State allocations based on the most recent cost and eligible legalized alien data.

State allocations under the alternative method would have been based on the cumulative total amount of funds made available to date, the cumulative total amount of SLIAG-related costs incurred by States to date, and the most recent data from INS on the number of eligible legalized aliens in each State. For example, the allocation made at the beginning of FY 1990 would have been based on the cumulative amount of SLIAG funds allotted in FY 1988 and FY 1989, plus the amount being made available in FY 1990. The formula would have included the cumulative total amount of SLIAG-related costs incurred by States in FY 1988 and FY 1989, plus the amount estimated to be incurred in FY 1990. (The alternative we considered would have used the same allocation formula described above, i.e., 50 percent based on population-related factors and 50 percent based on cost-related factors.)

Under the alternative method, we would have substituted more up-to-date cost data, as such data became available, for earlier estimates when we calculated cumulative SLIAG-related costs. For example, we would have used actual cost data supplied by a State pursuant to the end-of-year report required by § 402.51 of this regulation, once that report was submitted, to replace estimated cost data for prior years. Similarly, updated estimates reported to us voluntarily by States (in the same manner as the updated estimates proposed for FY 1988 in § 402.52 of this regulation) would have been substituted for the earlier estimates included in States' applications.

Under the alternative approach, we would have calculated State allocations on a more frequent basis, e.g., every six months, rather than annually. Grant awards would have been based on the difference between a State's allocation and the amount previously awarded to the State.

We did not propose the alternative because it has three drawbacks. First, computing State allocations more frequently than once a year would have reduced certainty for States because they would not have known at the beginning of the fiscal year their annual allotment. This would have made State and local governments' planning more difficult. Second, this approach would have resulted in greater reporting burden on those States that chose to provide additional data. Third, the alternative would have involved more Federal administrative effort and oversight than we believe necessary or supportable.

For these reasons, we proposed the approach described in these regulations rather than the alternative discussed above. However, we request that State and local governments and other interested parties comment specifically on this alternative method of computing SLIAG allocations.

Allotment of Excess Funds

The Act provides for the allotment of excess funds in certain circumstances. To the extent that all the funds appropriated under SLIAG for a fiscal year are not otherwise allotted to States either because all the States have not qualified for SLIAG funding or because some States have indicated that they do not intend to use, in that fiscal year or the succeeding fiscal year, the full amount of their allocations, such excess shall be allocated among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year. If a State does not intend to use the full amount of its allocation in the current or succeeding fiscal year, it should indicate in its application the amount of its allocation which it intends to use in the current or succeeding fiscal year. As indicated above, any funds which a State indicates that it does not intend to use in the current or succeeding fiscal year will be allotted among the remaining States.

Subpart E—State Applications

Application Content

The Act requires that a State submit an annual application, which must be approved by the Secretary in order for the State to be awarded SLIAG funds. A State's application consists of the information required by the Act and this regulation. The following sections describe the proposed requirements for the content of State applications.

Statement of Assurances

Section 204(d) of the Act requires that States submit, as part of their applications for SLIAG funds, a certification to three assurances. A State must certify that: (1) Funds allotted to the State under SLIAG will only be used to carry out the purposes described in subsection 204(c)(1) of the Act; (2) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies taking into account the number of eligible legalized aliens and the costs which the State and each locality (which we interpret to mean local government) is likely to incur in providing public assistance, public health assistance, and educational services to eligible legalized aliens; and (3) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of

subsections (e) and (f) of section 204 of the Act, relating to reports and audits, and to limitations on payments, respectively.

In addition to the three statutory assurances, we have proposed an additional assurance. We are proposing an assurance to carry out Congressional intent that SLIAG funds be used consistent with the anti-discrimination provisions set forth in section 204(h).

We encourage the State's chief executive officer or other appropriate State officials (as determined by the State) to consult with appropriate local public officials or their representatives concerning the data which the Act requires the State to submit as part of its application, namely the estimated number of eligible legalized aliens and estimated SLIAG-related costs for State and local governments. The Act provides that the method of allocating funds among State and local agencies must be "fair" in accordance with these data and other factors. Although we are not requiring such consultation as a condition of our approval of a State's application, we believe local government input into the development of these data is essential.

Certification by the Chief Executive Officer

Because the assurances required by the Act will normally involve a number of State agencies and jurisdictions, we are proposing that the certification required by the Act must be made by a State's chief executive officer or an individual authorized to do so by the chief executive officer. Such authorization must specifically include power to make all the required assurances; a delegation of authority simply to administer the program is not sufficient to enable the designee to certify to the assurances. In this regard, we have followed the procedures adopted for the HHS-administered block grant program.

Estimated Number of Eligible Legalized Aliens

As required by section 204(d)(2)(A) of the Act, States must submit, as part of their annual applications for SLIAG funds, "the number of eligible legalized aliens residing in the State." Recognizing that such data is not readily available to States, we have proposed in § 402.41(b) that States may adopt the estimate provided by the Department of the number of eligible legalized aliens in the State. The Department will make such estimates available prior to the beginning of each fiscal year. They will be based on data from the Immigration and Naturalization Service. These estimates will be included in the formula used to determine State allocations. While we have proposed to leave open the option for a State to develop and submit its own estimates of the number of eligible legalized aliens, along with supporting documentation, we expect that most States will elect to use the estimates we provide. We suggest that any questions concerning the data developed by the INS be directed to them and that States work with us and the INS to correct any problems States may see with these estimates.

SLIAG-Related Costs

Closely tracking section 204(d)(2)(B) of the Act, we have proposed at § 402.41(c) that the State's application contain detailed information on the costs which State and local governments are likely to incur in providing public assistance, public health assistance, and educational services to eligible legalized aliens. *Such costs include all costs associated with providing such assistance to eligible legalized aliens resulting from the legalization of such aliens regardless of whether those costs are actually reimbursed or paid for with funds allotted to the state under section 204 of the Act.* However, such estimates should not include costs for which Federal funds (other than SLIAG funds) are or will be available to the State or local government.

In reporting SLIAG-related costs, applications must disaggregate such costs by public assistance, public health assistance, and educational services. We are not requiring any specific breaddown by agency, program or local government. (States estimates of SLIAG-related costs for FY 1988 should include SLIAG-related costs incurred in FY 1987 pursuant to § 402.12 of this proposed regulation.)

Criteria for and Administrative Methods of Disbursing Funds

Section 204 of the Act requires that applications for SLIAG funds contain criteria for and administrative methods of disbursing funds. We have included the statutory requirement in the proposed regulation without further interpretation.

Single Point of Contact

For administrative efficiency, we have proposed that a State designate a single point of contact (SPOC) between the State and Federal Government. This SPOC may, but need not be, the administering agency. The SPOC is responsible for securing and submitting information required by the Act (e.g., the application including any necessary amendments, and the State's annual report).

Application Format

Desiring to provide States with flexibility, the Secretary is not prescribing any particular format for the application. Each State should insure that its submission satisfies the requirements of the Act and these regulations.

Application Deadline

Section 204(d) of the Act requires the Secretary to allot SLIAG funds to States with approved applications. Consequently, a State's allotment is affected by the number of States with approved applications. We have proposed the deadlines for SLIAG applications as set forth below. If a State fails to submit a timely application, it will not receive an allotment for that fiscal year.

Fiscal year	Deadline
FY 1988	Dec. 31, 1987.
FY 1989	Sept. 1, 1988.
FY 1990	Sept. 1, 1989.
FY 1991	Sept. 1, 1990.

For FY 1988, we are proposing a deadline of December 31, 1987. This allows States a reasonable amount of time after the Department's publication of final regulations to submit an application for funding. It also enables the Department to determine the number of States with approved applications early in the second quarter of the fiscal year. While States have until December 31, 1987, to submit applications for FY 1988 SLIAG funds, we plan to allocate funds and to begin issuing grant awards to States with approved applications beginning October 1, 1987.

We believe that the deadlines established for FY 1989 through FY 1991, allow States a reasonable amount of time to develop applications for funds and permit the Secretary to allocate funds at the beginning of the fiscal year to those States with approved applications.

Basis for Approval

The Department will review each State's application to ensure that it contains all of the assurances and information required by the Act and this Part. The Department's approval of State applications will be predicated on that review. Subsequent to its review, the Department will notify the State that the State's application is either approved or disapproved, together with the reasons for disapproval.

Approval of a State's application prior to the State's obligation of its own funds for allowable costs, to be subsequently reimbursed or paid for under SLIAG, is not mandated. A State may use SLIAG funds to reimburse itself for obligations incurred in that fiscal year but prior to approval of its application, as long as such obligations are consistent with the State's subsequently approved application, the Act, this regulation, and terms and conditions of the grant.

Recognizing that some States may submit unapprovable applications near the deadline for application submittal, we have provided that a State may submit changes to its application until 15 calendar days after the date of notification of disapproval or until the application deadline, whichever is later. This allows the State flexibility to submit changes to an unapprovable application even after the application deadline, while at the same time allowing the Secretary to determine the number of States with approved applications in a timely manner.

Public Availability

The Act contains no public participation or public hearing requirement related to public availability of a State's application or the manner in which it intends to expend SLIAG funds. We are not proposing to include such a requirement by regulation. However, believing public disclosure is appropriate, we encourage States to make their applications for SLIAG funds available for public inspection.

Subpart F—Recordkeeping, Reporting and Voluntary Cost Estimates

Recordkeeping

We have proposed minimal recordkeeping requirements by regulation. States must provide for the maintenance of records that are necessary to demonstrate that their expenditures meet the requirements of the Act and applicable departmental regulations, to permit the State to submit the annual report on its activities required by the Act and this Part, and to permit the State to comply with fund accounting requirements by tracing funds to allowable expenditures.

Reporting

Section 204(e)(A) of the Act requires States to submit to the Secretary annual reports containing such information as will allow the Secretary: (1) To secure an accurate description of activities funded under SLIAG, (2) to secure a complete record of the purposes for which SLIAG funds were spent, including the recipients of such funds; and (3) to determine the extent to which funds were expended consistent with the Act and this Part. In addition, section 204(e)(1)(B) of the Act requires the Secretary to report annually to Congress on activities funded under SLIAG.

We propose to require annual reports to reflect fiscal information on a particular grant or fiscal year. This requirement would include: (1) Identification of the amount obligated and the amount expended, by recipient and type of program (public assistance, public health assistance, or educational services); (2) the amount remaining unobligated which the State intends to carry forward to the succeeding fiscal year; and (3) any amount unobligated which the State does not desire to carry forward.

States must also provide a brief description of the programs or activities undertaken by each recipient which receives or expends SLIAG funds in the fiscal year. We are not seeking exhaustive descriptions of programs or activities. Rather, we are seeking descriptions for each provider of benefits or services (e.g., local government agency, State agency, local school district, private non-profit organization) that state the basic purposes of the program(s) or activity(ies), that identify the actual provider (if the recipient contracts with agents to deliver services), and the amount given to the provider, and that indicate the specific purposes for which SLIAG reimbursement or payment is being made. These descriptions must be identified by program category, i.e., public assistance, public health assistance, or educational service.

Voluntary Cost Estimate Submissions

We are also proposing to allow States to submit voluntarily updated SLIAG-related cost estimates for FYs 1987 and 1988. We will include in the calculation of final FY 1988 State allocations updated SLIAG-related cost estimates supplied by States, provided that they are submitted in accordance with this regulation.

Because SLIAG-related costs are a major determination of States SLIAG allocations, we wish to use the best available data in calculating State allocations. States' ability to estimate SLIAG-related costs accurately will increase substantially during the first year of the program. States will have a significantly better idea of the actual number of eligible legalized aliens and States will have obtained better information on the extent to which eligible legalized aliens participate in public programs and the costs associated with their participation.

These estimates are purely voluntary but must be submitted to the Department by June 1, 1988 if the data are to be included in calculating States' final FY 1988 allocations. (The actual cost reports discussed previously are mandatory.) In the absence of these voluntary updates, we will use the Federal estimates of SLIAG-related costs as used in the initial allocation for that year, updated using the best available INS data on each State's ELA population.

The proposed regulations specify that the estimates must be supported by descriptions of the programs and activities for which costs have been or will be incurred and descriptions of the methodologies assumptions employed to derive the cost estimates, e.g., number of eligible legalized aliens, participation rates, and unit costs or other measure of costs (along with a description of the method used to derive cost factors). We also propose to require that the estimates be provided in sufficient level of detail to permit us to evaluate whether the costs are consistent with statutory and regulatory provisions. Finally, any actual costs data used in the derivation of these estimates should be submitted to us, along with a description of the method(s) used to collect the actual cost data.

We are proposing at this time only general criteria for the submission of voluntary cost estimates and general specification for the criteria to be used by the Department to determine their acceptability for use in the allocation formula. We intend to continue consulting with States on the implementation of the SLIAG program, including consultation on issues related to methods that might be employed in estimating costs, appropriate submission content, and review criteria. In addition to these items, we also request that States provide in their comments any suggestions for or limitations on the kinds of information that they would be able to provide in support of this effort to ensure the reliability and comparability of the data used in the allocation formula. At the present time, we anticipate accepting States estimates that meet common-sense standards, including:

—Do current estimates appear to be consistent with past estimates, known actual costs, and changes in assumptions and data bases?

—Are revised estimates a result (all or in part) of changes in program activities?
—Do the activities included in the estimates comply with applicable program rules (e.g., are public assistance and public health programs generally available to the citizens of the State; are funds for educational services used consistent with the Act and these regulations; do the estimates include only costs associated with ELA's)?
—Are the participation rates of ELA's in public programs and other information and data used in developing the cost estimates based upon empirical data or other justifiable information?
—To what extent are the estimates based on actual costs incurred?

Executive Order

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that the regulation implementing this grant program does not constitute a major rule within the meaning of the Executive Order because it does not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

It is argued that the rules should be subjected to an impact analysis because the grant will involve spending large sums, in excess of the $100 million economic effect threshold established in the Executive Order. However, the Executive Order was not intended, and has not been interpreted, to classify as "major" rules that merely set forth the terms and conditions for spending appropriated funds. The essential requirement for a rule to be classified as "major" is that it "result in"—create or cause—economic effects that otherwise would not exist. In this case, the effect of the proposed rule is not to determine whether or not the money will be spent, but the procedures by which it will be spent, and it is that effect—which is negligible—against which the threshold criterion is applied. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations, and small governmental entities.

The primary impact of these regulations is on the States, which are not "small entities" within the meaning of the Act. Actual delivery of services will be performed primarily by State and local government agencies. Because this regulation provides States with great authority to prescribe management, organization, funding, and eligibility practices for service delivery, they do not directly impact small entities, either favorably or adversely. Instead, their impacts will depend on future State decisions.

We are not required to perform a regulatory impact analysis where the effect of the proposed regulation is speculative, and will be caused by decisions made independently of the Federal government. Therefore, the Secretary hereby certifies that a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Sections 402.21, 402.41, 402.51, and 402.52 of this proposed rule contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department has submitted these requirements to the Office of Management and Budget for its review. Other organizations and individuals desiring to submit comments on the information collection requirements are requested to send them to us and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building—Room 3208, Washington, DC 20503, Attention: Desk Officer for Health and Human Services.

List of Subjects

45 CFR Part 16

Administrative practice and procedure, Grant programs—health, Grant programs—social programs.

45 CFR Part 402

Administrative cost, Allocation formula, Aliens, Allotment, Education, Grant programs, Immigration, Immigration Reform and Control Act, Public assistance, Public health assistance, Reporting and recordkeeping requirements, State legalization impact assistance grants.

Authority: Section 204, Pub. L. 99-603.

Dated: July 28, 1987.

Phillip N. Hawkes,

Acting Administrator, Family Support Administration.

Approved: July 30, 1987.

Otis R. Bowen,

Secretary.

Title 45 of the Code of Federal Regulations, Subtitle A and Chapter IV are amended as follows:

Part 402 is added to 45 CFR Chapter IV to read—

PART 402—STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

Subpart A—Introduction

402.1 General.
402.2 Definitions.

Subpart B—Use of Funds.

402.10 Allowable use of funds.
402.11 Limitations on use of SLIAG funds.
402.12 Use of SLIAG funds for costs incurred prior to October 1, 1987.

Subpart C—Administration of Grants

402.20 General provisions.
402.21 Fiscal control.
402.22 SLIAG and program administrative costs.
402.23 Repayment.
402.24 Withholding.
402.25 Appeals.
402.26 Time period for obligation and expenditure of grant funds.

Subpart D—State Allocations

402.30 Basis of awards.
402.31 Determination of allocations.
402.32 Allotment of excess funds.

Subpart E—State Applications

402.40 General.
402.41 Application content.
402.42 Application format.
402.43 Application deadline.
402.44 Basis for approval.

Subpart F—Recordkeeping, Reporting and Voluntary Cost Estimate Submissions

402.50 Recordkeeping.
402.51 Reporting.
402.52 FY 1988 voluntary SLIAG-related cost estimate submissions.

Subpart A—Introduction

§ 402.1 General.

These regulations implement section 204 of Pub. L. 99-603, the Immigration Reform and Control Act of 1986 (IRCA), which establishes State Legalization Impact Assistance Grants (SLIAG) for States for fiscal year 1988 and for each of the three succeeding fiscal years. The purpose of SLIAG is to lessen the financial impact on State and local governments resulting from the adjustment of immigration status under the Act of certain groups of aliens residing in the States, the District of

Columbia, Puerto Rico, the Virgin Islands and Guam. Funds appropriated by this ssection may be applied by States with approved applications to certain State and local government costs incurred in providing public assistance and public health assistance to eligible legalized aliens and for making payments to State educational agencies for the purpose of assisting local educational agencies in providing certain educational services to eligible legalized aliens.

§ 402.2 Definitions.

As used in this part—

"Allocation" means an amount designated for a State, as determined by the formula used in this Part.

"Allotment" means the total amount awarded to a State for a fiscal year.

"Department" means the U.S. Department of Health and Human Services.

"Educational Services" means (1) supplementary services to eligible legalized aliens who are students enrolled in elementary and secondary schols or in educational programs available to adults, deemed necessary for the achievement of satisfactory performance by those students, including English language instruction, other bilingual educational service, and special materials and supplies; (2) any additional basic instructional services directly attributable to the presence of eligible legalized aliens in the school district, including costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental space, and costs of transportation; (3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this definition; and may include (4) English language and other programs designed to enable eligible legalized aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the INA. The State educational agency may provide educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness.

"Eligible legalized alien" means an alien whos status has been adjusted to lawful temporary resident under section 245A, 210, or 210a of the Immigration and Nationality Act, beginning on the effective date of such adjustment as established by the Immigration and Naturalization Services, and continuing until the end of the five-year period beginning on the effective date of such adjustment, provided that during that time the alien remains in lawful temporary or permanent resident status granted under the Act.

"INA" means the Immigration and Nationality Act, 8 U.S.C. 1101, et seq.

"Local government" has the same meaning as defined in 45 CFR Part 74.

"Other assistance" means assistance and services other than cash or medical assistance that are directed at meeting basic subsistence needs, and that meet all of the criteria in the definition of public assistance, above. "Other assistance" also means assistance and services in which participation is required as a condition of receipt of public assistance. (See "public assistance".)

"Public assistance" means cash, medical, or other assistance, defined below, provided to meet the basic subsistence needs or health needs of individuals (1) that is generally available to needy individuals residing in a State, (2) that is provided with funds from units of State or local government, and (3) for which applicants must meet specified income and resource requirements to be eligible.

"Public health assistance" means health services (1) that are generally available to needy individuals residing in a State: (2) that receive funding from units of State or local government; and (3) that are provided for the primary purpose of protecting the health of the general public, including, but not limited to, immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services.

"Recipient" has the same meaning as defined in 45 CFR Part 74.

"Secretary" means the Secretary of the Department of Health and Human Services.

"SLIAG-related costs" means the costs a State and local governments in that State incur in providing public assistance, public health assistance, or educational services, as defined in this section, to eligible legalized aliens, as defined in this section, regardless of whether those costs are actually reimbursed or paid for with funds allotted to the State under section 204 of the Act. Such costs shall not include any costs otherwise reimbursed or paid for under other Federal programs.

"State" means the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

"The Act" means the Immigration Reform and Control Act of 1986, Pub. L. 99–603.

Subpart B—Use of Funds

§ 402.10 Allowable use of funds.

(a) Funds provided under this Part may be used only with respect to costs incurred in providing assistance and services to eligible legalized aliens. States may use funds for:

(1) Public assistance, public health assistance, and educational services provided to eligible legalized aliens;

(2) Public health assistance provided to an alien applying on a timely basis to become an eligible legalized alien under section 245A of the INA, but not to those applying under section 210 or 210A of the INA.

(b) Unless specifically prohibited by a statute enacted subsequent to November 6, 1986, a State may use SLIAG funds to pay the non-Federal share of costs allowable under paragraph (a) of this section, incurred in providing assistance or services to eligible legalized aliens under Federal programs that have a matching or cost-sharing requirement, subject to the provisions of § 402.11(f) of this Part.

(c) To the extent consistent with 45 CFR Part 74 and § 402.22 of this Part, funds provided under this Part may be used for State and local costs associated with meeting the administrative requirements established by the Act and this Part, and the administrative costs associated with providing assistance or services to eligible legalized aliens under a program or activity that receives funds under this Part.

(d) Funds under this Part may be used to reimburse or pay costs or providing assistance or services to eligible legalized aliens that are incurred prior to the approval of the State's application, pursuant to Subpart E of this Part, but only to the extent that such costs are consistent with the Act, regulations in this and other cited Parts, the State's subsequently approved application, and the terms and conditions of its grant.

§ 402.11 Limitations on use of SLIAG funds.

(a) Funds provided under this Part that are used for public assistance and public health assistance may be used only with respect to programs in a State or local jurisdiction that (1) meet the definitons of § 402.2 of this Part, and (2) that are otherwise consistent with the rules and procedures governing such programs.

(b) Funds provided under this Part may not be used for costs to the extent that those costs are otherwise reimbursed or paid for under other Federal programs.

(c) Funds provided under this Part may not be used to provide reimbursement for more than 100 percent of the costs of providing public assistance and public health assistance to eligible legalized aliens.

(d) A State must use a minimum of 10 percent of its allotment under this Part in any fiscal year for costs associated with each of the following program categories: Public assistance, public health assistance, educational services. In the event that a State does not require use of a full 10 percent in one of the above categories, it must allocate the unused portion equally among the remaining categories.

(e) Funds provided under this Part may be used for educational services only to the extent that the total amount of funds from all Federal sources, provided for the same purposes, does not in any fiscal year exceed $500 per eligible legalized alien participating in educational services that receive such funds and only to the extent that the use of such funds is allowable under the Act and this Part.

(f) Funds provided under this Part may not be used to provide assistance under the programs of financial assistance from which eligible legalized aliens are barred by subsection 245A(h)(1), 210(f), or 210A(d)(6) of the INA. However, such funds may be used for the State and local share of the costs of providing such assistance to eligible legalized aliens who are excepted from the bar by subsection 245A(h) (2) or (3), 210(f), or 210A(d)(6) of the INA, provided that such individuals are otherwise eligible for benefits under such programs, and that the costs of providing those benefits are otherwise allowable under the Act, this regulation and the State's approved application.

(g) Funds provided under this Part shall not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

(h) Funds provided under this Part shall not be used to reimburse or pay costs incurred by any public or private entity or any individual, in the conduct of a medical exam as required for application for adjustment to lawful temporary resident status under 8 CFR 245a.2(i), 52 FR 16212, May 1, 1987.

§ 402.12 Use of SLIAG funds for costs incurred prior to October 1, 1987.

(a) Except as indicated in paragraphs (b) and (c) of this section, States may not use funds provided under this Part for costs incurred prior to October 1, 1987.

(b) A State may use funds provided under this Part for administrative costs incurred prior to October 1, 1987, but after November 6, 1986, that are directly associated with implementation of this Part. Such costs may include planning, preparing the application, establishing fund accounting and reporting systems, data development associated with the application, and other costs directly resulting from implementation of this Part.

(c) A State may use funds provided under this Part for costs incurred prior to October 1, 1987, but after November 6, 1986, in providing public health services to eligible legalized aliens and applicants for lawful temporary residence under section 245A of the INA, in conformity with the provisions of § 402.10(a) of this Part.

Subpart C—Administration of Grants

§ 402.20 General provisions.

Except where otherwise required by Federal law, the Department's rules located at 45 CFR Part 74, relating to the administration of grants, apply to funds provided under this Part.

§ 402.21 Fiscal control.

(a) Fiscal control and accounting procedures must be sufficient to permit preparation of reports required by the Act, this regulation, and other applicable statutes and regulations.

(b) States must have accounting systems in place which allow funds provided under this Part to be traced from drawdown to allowable SLIAG-related costs. Allowability of the amount and purpose of expenditures must be established for each recipient of SLIAG funds. States must demonstrate that allowable costs incurred in providing assistance or services to eligible legalized aliens equal or exceed the amount of SLIAG funds provided for those particular assistance and service activities. Documentation of the method of accounting and appropriate supporting information must be available for audit purposes and for Federal program reviews. To establish allowability of expenditures, States may use methods prescribed in paragraph (c) of this section. Alternatively, the State may use any other reliable method of cost calculation, subject to Federal review.

(c)(1) For public assistance, States may establish allowability by accounting for actual expenditures made to or on behalf of identifiable eligible legalized aliens who qualify for and receive assistance and/or services from the recipient, or by use of a statistically valid sampling of a recipient's public assistance caseload.

(2) For public health assistance, States may establish allowability by accounting for actual expenditures made to or on behalf of identifiable eligible legalized aliens who qualify for and receive such assistance and/or services, by use of a statistically valid sampling of clients in the public health system of the State or local government, or by using the ratio of eligible legalized aliens to all residents of the State.

§ 402.22 SLIAG and program administrative costs.

(a) SLIAG administrative costs allowable under this Part include the direct and indirect costs related to administration of this Part, including: Planning and consultation with local officials, preparing the application, audits, allocation of funds, tracking and recordkeeping, monitoring use of funds, and reporting.

(b) Program administrative costs are those costs incurred by a recipient directly associated with providing assistance or services to eligible legalized aliens. Such costs may be based: on the proportion of eligible legalized aliens provided assistance and/or services allowable under this Part by a recipient, relative to all persons provided assistance and/or services allowable under this Part by that recipient; on the proportion of program or service costs actually incurred in providing assistance and/or services allowable under this Part by a recipient, relative to all costs of providing the same assistance and/or services allowable under this Part by the recipient; or on such other basis as will document that administrative costs incurred in providing such assistance and/or services are allowable, allocable, and reasonable.

§ 402.23 Repayment.

The Department will order a State to repay amounts found not to have been expended in accordance with Federal law, regulations, the State's approved application, or terms of the State's grant. If a State refuses to repay such amounts, the Department may offset the amount against any other amount to which the State is or may become entitled under this Part.

§ 402.24 Withholding.

After notice and opportunity for a hearing, the Secretary may withhold payment of funds to any State which is not using its allotment in accordance with the Act, these regulations, 45 CFR Part 74, and terms of the grant award.

§ 402.25 Appeals.

Appeals under this Subpart will be subject to 45 CFR Part 16, Procedures of the Departmental Grant Appeals Board.

§ 402.26 Time period for obligation and expenditure of grant funds.

(a) Any amount awarded to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to the State in subsequent fiscal years, but not after September 30, 1994.

(b) Obligations by a recipient must be liquidated within 12 months of the end of the Federal fiscal year in which the obligation was made. However, where a State can demonstrate extenuating circumstances that prohibit compliance with this requirement, the Secretary may extend such date upon request by the State.

Subpart D—State Allocations

§ 402.30 Basis of awards.

The Secretary will award funds in a fiscal year to States with approved applications for that fiscal year in accordance with the apportionment of funds from the Office of Management and Budget. The grant award constitutes the authority to draw and expend funds for the purposes set forth in the Act and this regulation.

§ 402.31 Determination of allocations.

(a) *Initial FY 1988 allocations.* In FY 1988, initial State allocations will be calculated based on 50 percent of the SLIAG funds available for grants to States. Preliminary allocations for FY 1988 will be determined as follows:

(1) 50 percent based on the State's eligible legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher than average ratios of eligible legalized aliens to total population, based on the proportional number of such aliens relative to the average for all States.

(2) 50 percent based on Federal estimates of relative SLIAG-related costs.

(b) *FY 1988 final allocations.* Final allocations for FY 1988 will be calculated based upon 100 percent of the SLIAG funds available for grants to States. Final allocations for FY 1988 will be determined as follows:

(1) 50 percent based on the State's eligible legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher than average ratios of eligible legalized aliens to total population, based on the proportional number of such aliens relative to the average for all States.

(2) 50 percent based on the ratio of SLIAG-related costs which each State is likely to incur to the total of all such costs for all States. SLIAG-related costs will be obtained from the report specified in § 402.51, if submitted by a State in accordance with the section. Otherwise, the Department will use Federal estimates of SLIAG-related costs.

A State's final FY 1988 allotment will be determined by adding the State's initial allotment determined under paragraph (a) of this section to an amount proportionate to the difference between the amount of the State's SLIAG allocation determined under this paragraph and its initial FY 1988 allotment. The amount to be added to a State's initial allotments will be determined by the ratio of the difference between the allocation determined under this paragraph and the State's initial allotment to the sum of all such differences for all States whose allocations determined under this paragraph exceed their initial allotments determined by paragraph (a) of this section. In the event a State's allocation determined under this paragraph is less than the amount allotted to that State pursuant to paragraph (a) of this section, that State will be allotted no additional funds for FY 1988. However, its allotment will not be reduced below the amount allotted under paragraph (a) of this section.

(c) *FY 1989 allocations.* Allocations for FY 1989 will be determined as follows:

(1) 50 percent based on the State's eligible legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher than average ratios of eligible legalized aliens to total population, based on the proportional number of such aliens relative to the average for all States.

(2) 50 percent based on the ratio of SLIAG-related costs which each State is likely to incur, as reported in the States' applications submitted pursuant to § 402.41(c) of this Part, to the total of all such costs for all States.

(d) *FY 1990 and 1991 allocations.* Allocations for FY 1990 and FY 1991 will be determined as follows:

(1) 50 percent based on the State's eligibile legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher than average ratios of eligible legalized aliens to total population, based on the proportional number of such aliens relative to the average for all States.

(2) 50 percent based on a State's SLIAG-related costs, with 45 percent based on the State's estimated SLIAG-related costs relative to the estimated SLIAG-related costs of all States, as reported in State SLIAG applications pursuant to § 402.41(c) of this Part, and 5 percent proportionately to those States whose actual costs, as reported in the annual report required by § 402.51, exceeded their allotments for that year, based on the amount of the disparity. (FY 1990 allocations will take into account the difference between actual costs in FY 1988 and the FY 1988 allotments. Similarly, FY 1991 allocations will consider FY 1989, rather than FY 1988, costs and allotments.) In the event that these adjustments total to less than 5 percent of the available amount, the remaining amount will be distributed in according to each State's estimated SLIAG-related costs relative to the estimated SLIAG-related costs of all States, as reported in their applications. If a State fails to submit the report required under § 402.51 of this Part, the Department will consider, for purposes of calculating allocations under this section, that the State had no actual SLIAG-related costs for the applicable fiscal years.

§ 402.32 Allotment of excess funds.

If a state fails to qualify for an allotment in a particular fiscal year because it did not submit an approvable application by the deadline established in § 402.43 of this Part, or is not alloted its designated allocation amount because it indicated in its description of activities that it does not intend to use, in the fiscal year for which the application is made or in the succeeding fiscal year, the full amount of its allocation, funds which would otherwise have been allotted to that State in that fiscal year shall be allotted among the remaining States submitting timely approved applications in proportion to the amount that otherwise would have been allotted to such States in that fiscal year.

Subpart E—State Applications

§ 402.40 General.

In order to be eligible for funds

available under this Part in a fiscal year, a State must submit an annual application. A State's application must be approved by the Secretary prior to the award of funds to that State.

§ 402.41 Application content.

A State application must:

(a) Contain certifications by the chief executive officer or an individual specifically designated to make such certifications on behalf of the chief executive officer that, notwithstanding other contents of the application, the State assures that:

(1) Funds allotted to the State will be used only to carry out the purposes described in the Act and this Part.

(2) The State will provide a fair method for the allocation of funds among State and local agencies (as determined by the State) in accordance with the information in the application as required under paragraph (b) of this section, and in accordance with the provisions of § 402.11(d) of this Part, which sets forth minimum funding levels for program categories.

(3) Fiscal control and accounting procedures used in the administration of SLIAG funds will be established that are adequate to meet the requirements established by the Act and this regulation.

(4) The State will comply with the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, and on the basis of sex or religion under section 204(h)(1)(B) of the Immigration Reform and Control Act of 1986.

(b) Contain information on the number of eligible legalized aliens residing in the State. A State may either (1) adopt as its official State-level estimate the estimate of the State's number of eligible legalized aliens provided by the Department, or (2) provide its own estimate, including detailed information on the method and data used in deriving the estimate.

(c) Contain an estimate of likely SLIAG-related costs for the fiscal year for each of the purposes described in § 402.10(a), that is, public assistance, public health assistance, and educational services. Such estimates for FY 1988 should include costs incurred in FY 1987, pursuant to § 402.12 of this Part.

(d) Contain information on the criteria for and administrative methods of disbursing funds received under this Part.

(e) Designate a single point of contact (SPOC) in the State responsible for securing and submitting information required by the Act and this regulation and provide the name, title, mailing address and telephone number of such official. If the grantee agency is different from the SPOC, also provide the name, title, mailing address, telephone number of the official in that agency responsible for State administration of funds available under this Part. In either case, provide the employer identification number of the grantee agency.

§ 402.42 Application format.

A State may determine the format of its application as long as it contains all the information required by § 402.41 of this Part.

§ 402.43 Application deadline.

A State that is applying for SLIAG funds for Federal fiscal year 1988 must submit an application postmarked no later than December 31, 1987. Applications for Federal fiscal years 1989, 1990, and 1991 must be postmarked no later than September 1, 1988, September 1, 1989, and September 1, 1990, respectively. If a State fails to submit an application by this date, funds which it may otherwise have been eligible to receive shall be distributed among States submitting timely approved applications in accordance with § 402.32 of this Part.

§ 402.44 Basis for approval.

(a) The Department will review each State's application to ensure that it contains all of the assurances and information required by the Act and this Subpart.

(b) The Department will notify the State that (1) its application has been approved or (2) its application has been disapproved together with the reasons for disapproval.

(c) A State may submit changes to a disapproved application until the due date for applications, or until 15 calendar days after the date of notification in paragraph (b) of this section, whichever is later, in order to ensure that the application is approvable prior to the final determination of allotment amounts for that fiscal year. States failing to submit, by the date established in this section, all information necessary in order for the Department to approve its application, shall be ineligible to receive funds for that fiscal year.

Subpart F—Recordkeeping, Reporting and Voluntary Cost Estimate Submissions

§ 402.50 Recordkeeping.

A State must provide for the maintenance of such records as are necessary:

(a) To meet the requirements of the Act and Department regulations relating to retention of and access to records:

(b) To allow the State to provide to the Department (1) an accurate description of its activities undertaken with SLIAG funds, and (2) a complete record of the purposes for which SLIAG funds were spent, and of the recipients of such funds; and

(c) To allow the Department and auditors of the State to determine the extent to which SLIAG funds were expended consistent with the Act and this regulation.

§ 402.51 Reporting.

(a) A State must submit no later than 90 days after the end of a Federal fiscal year for which it received or during which it obligated or expended SLIAG funds, an annual report containing information identified in paragraphs (c), (d) and (e) of this section.

(b) Failure to submit the annual report required in paragraph (a) of this petition, by the deadline, without prior written permission from the Secretary, constitutes a basis for withholding of SLIAG funds.

(c) A State's annual report must provide status of funds information, as of September 30, for the fiscal year, including:

(1) Identification of the amount obligated and the amount expended by each recipient to which SLIAG funds were obligated or by which SLIAG funds were expended during the fiscal year;

(2) Identification of any amount remaining unobligated at the end of the fiscal year which the State intends to carry over to the succeeding fiscal year; and,

(3) Identification of any amount remaining unobligated at the end of the fiscal year which the State does not desire to carry over to the succeeding fiscal year.

Funds made available under each annual grant must be reported separately. Obligations and expenditures made prior to October 1, 1987, must be reported as a discrete subset of FY 1988 fiscal activity. All amounts under paragraph (c)(1) of this section must be attributed to a program category (public assistance, public

health assistance, or educational service).

(d) A State's annual report must provide, for each recipient to which SLIAG funds were obligated or by which SLIAG funds were expended during the fiscal year (including funds carried over from the preceding fiscal year), a brief description of the activities on behalf of eligible legalized aliens for which the funds were awarded by the State. In cases where a recipient uses contractors or other entities to provide assistance or services directly to eligible legalized aliens, the descriptions must include the name of provider, specific type of activity, and amount of award and must identify the program category (public assistance, public health assistance, or educational service) of each.

(e) A State's annual report must also provide the actual SLIAG-related costs incurred during the fiscal year. The report must provide for each unit of government (State and local), the amount of the actual SLIAG-related costs which that unit of government incurred, categorized by public assistance, public health assistance, and educational services.

(f) A State must use SF–269 in its reporting under paragraph (c) of this section but it may determine the format of its annual report content under paragraphs (d) and (e) of this section.

§ 402.52 FY 1988 Voluntary SLIAG-related cost estimate submissions.

(a) A State may submit, on a voluntary basis, a report providing updated SLIAG-related cost estimates for FY 1987 and FY 1988. Provided that the report meets the criteria in paragraph (b) of this section, the Department will include such updated SLIAG-related cost estimates in its calculation of final FY 1988 allocations, as described in § 402.31(b) of this Part.

(b) In order to be taken into account, voluntary cost estimate submissions—

(1) Must be received by the Department no later than June 1, 1988. Reports must contain estimates of the SLIAG-related costs the State and each locality in the State have incurred or will incur in FY 1988, including SLIAG-related costs incurred in FY 1987 pursuant to § 402.12 of this Part.

(2) Must provide estimates of SLIAG-related costs and descriptions of the programs and activities for which SLIAG-related costs have been or will be incurred in sufficient detail to permit evaluation by the Department of the reasonableness of such estimates and the allowability of such costs under applicable statutory and regulatory provisions.

(3) Must provide a description of the methodology used in determining the population base (e.g., the proportion of eligible legalized aliens who are eligible for and likely to participate in or benefit from the program or service), and in calculating the amount of cost (e.g., description of how a unit or other measure of the cost of providing services or benefits was calculated, or, if the estimate is based on actual cost data, description of how the data were obtained).

PART 16–PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

1. The authority citation for Part 16 continues to read as follows:

Authority: 5. U.S.C. 301 and secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

2. Appendix A to Part 16 is amended by adding paragraph B(a)(6) to read as follows:

Appendix A—What Disputes the Board Reviews

B. * * *

(a) * * *

(6) Decisions relating to repayment and withholding under State Legalization Impact Assistance Grants as provided in 45 CFR 402.24 and 402.25.

* * * * *

Editorial note: This appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4150-04-M

APPENDIX A

APPENDIX A

	STATE POPULATION (thousands)	NUMBER OF ELA'S (thousands)	PERCENT OF ELA'S	RATIO ELA's TO STATE POPULATION	PERCENT OF ESTIMATED SLIAG-RELATED COSTS	ILLUSTRATIVE ALLOCATION ($ millions)	ILLUSTRATIVE ALLOCATION (PERCENT)
ALABAMA	4,021	17	0.51%	0.42%	0.42%	$2.13	0.46%
ALASKA	521	1	0.03%	0.19%	0.04%	$0.16	0.03%
ARIZONA	3,187	41	1.23%	1.29%	1.14%	$5.46	1.18%
ARKANSAS	2,359	8	0.24%	0.34%	0.20%	$1.00	0.22%
CALIFORNIA	26,365	1,619	48.55%	6.14%	51.57%	$233.59	50.34%
COLORADO	3,231	31	0.93%	0.96%	0.85%	$4.09	0.88%
CONNECTICUT	3,174	4	0.12%	0.13%	0.11%	$0.53	0.11%
DELAWARE	622	1	0.03%	0.16%	0.03%	$0.13	0.03%
DISTRICT OF COL	626	21	0.63%	3.35%	0.86%	$3.47	0.75%
FLORIDA	11,366	170	5.10%	1.50%	4.41%	$21.95	4.73%
GEORGIA	5,976	36	1.08%	0.60%	0.88%	$4.51	0.97%
HAWAII	1,054	6	0.18%	0.57%	0.17%	$0.81	0.18%
IDAHO	1,005	14	0.42%	1.39%	0.35%	$1.78	0.38%
ILLINOIS	11,535	196	5.88%	1.70%	5.65%	$26.67	5.75%
INDIANA	5,499	12	0.36%	0.22%	0.31%	$1.54	0.33%
IOWA	2,884	8	0.24%	0.28%	0.23%	$1.07	0.23%
KANSAS	2,450	15	0.45%	0.61%	0.39%	$1.93	0.42%
KENTUCKY	3,726	9	0.27%	0.24%	0.23%	$1.16	0.25%
LOUISIANA	4,481	14	0.42%	0.31%	0.38%	$1.83	0.39%
MAINE	1,164	2	0.06%	0.17%	0.06%	$0.27	0.06%
MARYLAND	4,392	46	1.38%	1.05%	1.28%	$6.11	1.32%
MASSACHUSETTS	5,822	22	0.66%	0.38%	0.71%	$3.14	0.68%
MICHIGAN	9,088	23	0.69%	0.25%	0.77%	$3.35	0.72%
MINNESOTA	4,193	21	0.63%	0.50%	0.67%	$2.98	0.64%
MISSISSIPPI	2,613	8	0.24%	0.31%	0.20%	$1.02	0.22%
MISSOURI	5,029	12	0.36%	0.24%	0.31%	$1.54	0.33%
MONTANA	826	4	0.12%	0.48%	0.11%	$0.54	0.12%
NEBRASKA	1,606	8	0.24%	0.50%	0.20%	$1.02	0.22%
NEVADA	936	9	0.27%	0.96%	0.23%	$1.16	0.25%
NEW HAMPSHIRE	998	1	0.03%	0.10%	0.03%	$0.13	0.03%
NEW JERSEY	7,562	33	0.99%	0.44%	0.94%	$4.43	0.96%
NEW MEXICO	1,450	23	0.69%	1.59%	0.60%	$2.97	0.64%
NEW YORK	17,783	258	7.74%	1.45%	9.06%	$38.79	8.36%
NORTH CAROLINA	6,255	18	0.54%	0.29%	0.45%	$2.27	0.49%
NORTH DAKOTA	685	3	0.09%	0.44%	0.08%	$0.40	0.09%
OHIO	10,744	15	0.45%	0.14%	0.45%	$2.06	0.44%
OKLAHOMA	3,301	25	0.75%	0.76%	0.63%	$3.16	0.68%
OREGON	2,687	39	1.17%	1.45%	1.03%	$5.07	1.09%
PENNSYLVANIA	11,853	13	0.39%	0.11%	0.38%	$1.77	0.38%
RHODE ISLAND	968	2	0.06%	0.21%	0.06%	$0.29	0.06%
SOUTH CAROLINA	3,347	14	0.42%	0.42%	0.35%	$1.77	0.38%
SOUTH DAKOTA	708	2	0.06%	0.28%	0.05%	$0.25	0.05%
TENNESSEE	4,762	14	0.42%	0.29%	0.36%	$1.79	0.39%
TEXAS	16,370	307	9.21%	1.88%	7.46%	$38.60	8.32%
UTAH	1,645	14	0.42%	0.85%	0.38%	$1.84	0.40%
VERMONT	535	1	0.03%	0.19%	0.03%	$0.13	0.03%
VIRGINIA	5,706	56	1.68%	0.98%	1.56%	$7.44	1.60%
WASHINGTON	4,409	63	1.89%	1.43%	1.83%	$8.58	1.85%
WEST VIRGINIA	1,936	2	0.06%	0.10%	0.05%	$0.26	0.06%
WISCONSIN	4,775	17	0.51%	0.36%	0.57%	$2.49	0.54%
WYOMING	509	2	0.06%	0.39%	0.06%	$0.27	0.06%
PUERTO RICO	3,282	15	0.45%	0.46%	0.35%	$1.84	0.40%
VIRGIN ISLANDS	111	13	0.39%	11.71%	0.30%	$1.62	0.35%
GUAM	124	7	0.21%	5.65%	0.16%	$0.85	0.18%
TOTAL	242,256	3,335	100.00%		100.00%	$464.00	100.00%
AVERAGE				1.06%			

[FR Doc. 87-18410 Filed 8-12-87; 8:45 am]
BILLING CODE 4150-04-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 11 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the plan amendment will be accepted on or before October 7, 1987.

ADDRESS: All comments should be sent to Robert McVey, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802.

Copies of the amendment and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available upon request from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Jay Ginter (Fishery Management Biologist), National Marine Fisheries Service, Alaska Region, 907–586–7230.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval.

The act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or amendment.

Amendment 11 proposes the following measures: (1) Establish a split season apportionment of pollock for U.S. vessels working in joint ventures with foreign processing vessels (JVP), and (2) change the definition of prohibited species. These measures are intended to respond to biological, economic and administrative problems identified by the Council. In addiiton, NOAA is proposing to make a regulatory amendment to change the definition of directed fishing. Regulations proposed by the Council and based on this amendment are scheduled to be published within 15 days.

(16 U.S.C. 1801 *et seq.*).

Dated: August 10, 1987.

Richard H. Schaefer,

Acting Director for Fisheries Conservation and Management.

[FR Doc. 87–18527 Filed 8–10–87; 4:59 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

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

Soil Conservation Service

Finding of No Significant Impact; Laurel Hill Creek Watershed, Pennsylvania

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Laurel Hill Creek Watershed, Somerset County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782–4453.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. James H. Olson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include the installation of conservation and management practices for erosion and sediment control on 4,000 acres of cropland and agricultural waste management systems to reduce pollution to the streams, water supply reservoir, and a recreation lake.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting James H. Olson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10–904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires inter-governmental consultation with state and local officials.)

Dated: August 6, 1987.

James H. Olson,

State Conservationist.

[FR Doc. 87–18457 Filed 8–12–87; 8:45 am]

BILLING CODE 3410–16–M

Finding of No Significant Impact; Shelbyville Elks Lodge #457, Shelbyville Elks Club CAT RC&D Measure, Indiana

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Shelbyville Elks Club RC&D measure, Shelby, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for Critical Area Treatment. The planned works of improvement include the clearing of approximately 30 small trees and reshaping of 300 lineal feet of streambank. The lower portion of the streambank will be rip-rapped with stone and the upper portion seeded to grasses.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: August 4, 1987.

Robert L. Eddleman,

State Conservationist.

[FR Doc. 87–18458 Filed 8–12–87; 8:45 am]

BILLING CODE 3410–16–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: National Bureau of Standards
Title: Quarterly Performance/Technical Report
Form Number: Agency—N/A; OMB—N/A

Type of Request: Existing Collection in Use Without an OMB Control Number
Burden: 150 respondents; 900 reporting hours
Needs and Uses: NBS provides financial assistance for the purpose of scientific research. The information obtained from receipients is used by NBS to monitor the performance of grantee activities and to track results achieved.
Affected Public: Businesses or other for-profit orgranizations; non-profit institutions
Frequency: Quarterly
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, 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 Sheri Fox, OMB Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 10, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–18502 Filed 8–12–87; 8:45 am]

BILLING CODE 3510–CW–M

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: National Oceanic and Atmospheric Administration
Title: Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities
Form Number: Agency—N/A; OMB—0648–0151
Type of Request: Revision to a currently approved collection
Burden: 21 respondents; 200 burden hours
Needs and Uses: The Marine Mammal Protection Act of 1972 imposed, with certain exceptions, a moratorium on the taking of marine mammals. The Secretary was given authority, however, to allow the taking of a small number of marine mammals incidental to specified activities (other than commercial fishing). The information is used to determine whether to allow an incidental take and to monitor any authorized taking. The affected public is any U.S. citizen that applies for this authorization.
Affected Public: Individuals; state or local governments; businesses or other for-profit institutions; federal agencies
Frequency: On occasion, annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, 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 John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: August 10, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–18503 Filed 8–12–87; 8:45 am]

BILLING CODE 3510–CW–M

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: Patent and Trademark Office
Title: Admittance to Practice Before the Patent and Trademark Office
Form Number: Agency-PTO-158, 107A and 297; OMB–0651–0012
Type of Request: Revision of a currently approved collection
Burden: 4,400 respondents; 1,180 burden hours
Needs and Uses: PTO collects information from persons seeking to be registered to practice before the PTO. The purpose of the registration is to ensure that the candidates have sufficient basic training in scientific and technical matters to represent patent applicants. The roster of attorneys and agents registered to practice before PTO is revised periodically. Information is collected from agents and attorneys for the update of the register.
Affected Public: Individuals
Frequency: On occasion, once every 5 years
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6228, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 10, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–18504 Filed 8–12–87; 8:45 am]

BILLING CODE 3510–CW–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Secretary
Title: Personal History Statement for Possible Nomination to an Advisory Committee
Form Number: Agency—CD–555; OMB–0605–0035
Type of Request: Revision of a currently approved collection
Burden: 800 respondents; 400 reporting hours
Needs and Uses: The collected information is used by the Confidential Assistant to the Secretary in the Departmental administrative clearance process. This clearance is required before any non-Federal person can be appointed to an advisory committee.
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Donald Arbuckle 395–7340

Agency: Office of the Inspector General
Title: Applicant for Funding Assistance
Form Number: Agency—CD–346; OMB—0605–0001
Type of Request: Extension of a currently approved collection
Burden: 3,348 respondent; 837 reporting hours
Needs and Uses: The collected information is used to establish the

good character of principal officers and employees of organizations, firms, or recipients or beneficiaries of grants, loans, or loan guarantee programs that may receive grants, loans or guarantees from the Commerce Department.

Affected Public: Individuals or households, businesses or other for-profit institutions, small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Donald Arbuckle 395–7340

Agency: Economic Development Administration (EDA)

Title: Current and Projected Employee Data

Form Number: Agency—ED–612; OMB—0610–0003

Type of Request: Revision of a currently approved collection

Burden: 800 respondents; 600 reporting hours

Needs and Uses: This information is needed to determine the compliance with Title VI of the Civil Rights Act of 1964, and Departmental and Agency regulations. Those entities creating or saving less than 15 jobs as a result of EDA assistance are not required to complete this report.

Affected Public: State or local governments, businesses or other for-profit institutions, non-profit institutions

Frequency: On occasion, annually

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Francine Picoult 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to the executive OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: August 10, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–18505 Filed 8–12–87; 8:45am]

BILLING CODE 3510–CW–M

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application # 87–00008.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Roger E. Holtman d/b/a Rocky Mountain Export Trading Company. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Deputy Director, Office of Export Trading Company Affairs, International Trade Administration, 202–377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("The Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products

All products.

Services

Architectural and engineering services; product research; market research; marketing; consulting; and arranging for financing.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Overseas freight transportation; inland freight transportation to U.S. export terminals, ports, or gateways; packing and crating; warehousing; freight forwarding including consolidation of shipments; and other services directly related to the movement of goods being exported or in the course of being exported; consulting; international market research; advertising; marketing; insurance; product research and design; trade documentation; communication and processing of foreign orders to and for exporters and foreign purchasers; foreign exchange; financing; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

Rocky Mountain may—

(1) Enter into exclusive and nonexclusive contracts with

(a) Individual Suppliers of Products and Services to act as an Export Intermediary;

(b) Individual Export Intermediaries for the sale of Products and/or Services in the Export Markets;

(c) Foreign customers of Products and Services, including governmental entities; and

(2) Negotiate charges and other terms and enter into contracts with individual ocean common carriers and individual conferences for the transportation of Products.

Definitions

"Export Intermediary" means a person who acts as a broker, distributor, sales representative, or sales or marketing agent, or who performs similar functions, including providing or arranging for the provision of export Trade Facilitation Services for sales in the Export Markets.

"Exclusive" means that the supplier (Export Intermediary customer) agrees not to deal in Export Trade in Export Markets with anyone other than Rocky Mountain; and/or Rocky Mountain agrees not to deal in Export Trade in Export Markets with anyone other than that supplier (Export Intermediary, customer).

"Supplier" means a person who produces, provides, or sells Products or Services for sale in the Export Markets.

A copy of the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: August 7, 1987.

George Muller,

Deputy Director, Office of Export Trading Company Affairs.

[FR Doc. 87-18506 Filed 8-12-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 17 September 1987

Time: 0830-1700

Place: Parson's Island, Chester, Maryland

Proposed Agenda: Preventive Medicine Officer Reports, Korean Hemorrhagic Fever, Dysgonic Fermenter Type 2 Infections, Japanese B. Encephalitis, Human Immunodeficiency Virus Infections and Disease Data Development at the Armed Forces Medical Intelligence Center.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455, Pentagon, Washington, DC 20310-2300, (202) 695-9115.

Dated: August 6, 1987.

Robert A. Wells,

Col. USA, MSC, Executive Secretary.

[FR Doc. 87-18538 Filed 8-12-87; 8:45 am]

BILLING CODE 3810-01-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 18 September 1987.

Time: 0800-1100.

Place: Parson's Island, Chester, Maryland.

Proposed Agenda: Project Ranch Hand Program Update and Serum Dioxin Studies; Air Force Survey on Cancer in the Work Place; Review of Board Recommendations and Summary of the Meeting.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 2D455, Pentagon, Washington, DC 20310-2300, (202) 695-9115.

Dated: August 6, 1987.

Robert A. Wells,

Col., USA, MSC, Executive Secretary.

[FR Doc. 87-18539 Filed 8-12-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No: 84.017]

Invitation of Applications for New Awards Under the International Research and Studies Program for Fiscal Year 1988

Purpose: Provides grants to public and private agencies, organizations, institutions, and individuals to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and related fields.

Priorities: The regulations governing the International Research and Studies Program (34 CFR 660.34) provide for the establishment of funding priorities by the Secretary. For FY 1988, the Secretary has established funding priorities for new awards for research. The priorities will be applied in accordance with the provisions of 34 CFR 75.105(c)(2)(ii) and are in the following areas: (1) Foreign language proficiency testing; (2) foreign language acquisition processes; (3) improved teaching methodologies for modern foreign languages. In addition, in accordance with 34 CFR 75.105(c)(1), the Secretary urges the proposal of projects involving the development of instructional materials for uncommonly taught modern foreign languages.

Deadline for transmittal of applications: November 20, 1987.

Applications Available: September 21, 1987.

Available Funds: The Administration's budget request for fiscal year 1988 does not include funds for this program. However, applications are being invited to allow sufficient time to evaluate applications and complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program. The following estimates are based on the FY 1987 appropriation.

Estimated Range of Awards: $20,000 to $120,000.

Estimated Average Size of Awards: $65,000.

Estimated Number of Awards: 15

Project Period: 12 to 36 months.

Applicable Regulations: (a) International Research and Studies Program, 34 CFR Parts 655 and 660, and (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications or Information Contact:

Robert R. Dennis or Jose L. Martinez, U.S. Department of Education, 400 Maryland Avenue SW., Room 3053, ROB-3, Washington, DC 20202. Telephone: (202) 732-3296; 732-3298.

Program Authority: 20 U.S.C. 1125.

Dated: August 6, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-18468 Filed 8-12-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance; Restriction of Eligibility for Grant Award; Stanford University, Energy Modeling Forum

AGENCY: Department of Energy.

ACTION: Notice of solicitation for a grant application.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b), eligibility for a grant has been restricted to the Stanford University, Energy Modeling Forum (EMF). In recent years there has been a proliferation of energy models. Models have been developed within universities, research institutions, consulting companies, industrial and commercial concerns as well as numerous Federal and state agencies. The ability to utilize these models effectively in energy policymaking has not kept pace. A gap exists between the model builders and the model users. The proposed research project will make a significant contribution to U.S. energy research by satisfying the following objectives:

(1) It will systematically bring together major model builders and model users in a forum which elicits dialog between the two groups,

(2) It will investigate methodological issues germane to the underlying design and construction of specific models,

(3) It will evaluate energy issues and energy policy responses, with particular emphasis on the applicability of models to specified energy events and policies,

(4) It will identify areas where improvements in data and modeling techniques are needed,

(5) Through the objectives stated above, it will improve the understanding on the part of all energy researchers, public and private, on the use of models for the analysis of energy issues and energy policy alternatives.

Eligibility: The EMF is a prestigious and independent source of important critical review of energy models and issues. It provides a forum, otherwise unavailable, of systematically bringing together the major model builders and model users from a broad spectrum covering academic, industrial and government communities. The participation of these groups in the study of critical energy issues and models yields a unique combination of intellectual capabilities that will enhance its ability to assure the relevancy of model building and application to real world issues. The EMF has demonstrated a unique capability of drawing together a large and diverse group of energy experts from academic, government, and business communities. The membership of the EMF brings to these issues a combination of talent and expertise embodied in both model builders and model users. Therefore DOE has determined that it is appropriate to restrict eligibility in its solicitation.

Term: The term (project period) of the grant is expected to be three years.

FOR FURTHER INFORMATION CONTACT: Mr. Edmond J. Golden Jr., U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9512.

Stephen J. Michelsen,

Director, Contract Operations Division 'B', Office of Procurement Operations.

[FR Doc. 87–18430 Filed 8–12–87; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Final Response to a Challenge Under the Near Term Intertie Access Policy; Pacific Northwest/Pacific Southwest Intertie Transmission Lines

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: BPA's final response to a challenge under its Near Term Intertie Access Policy (NTIAP).

SUMMARY: By letter of April 17, 1986, the National Marine Fisheries Service (NMFS) notified BPA that, in accordance with the NTIAP, it was challenging the access of power from two Pacific Northwest hydroelectric projects to the BPA-owned portion of the Pacific Northwest/Pacific Southwest Intertie (Intertie) transmission lines. BPA prepared a proposed response to this challenge and published that response in the **Federal Register** on February 18, 1987, for public review and comment.

After careful consideration of public comments, BPA's response to NMFS' challenge is that power generated from the challenged projects was not transmitted to the BPA-owned portion of the Intertie during the period challenged, June 1985 to April 1986. Because BPA's Intertie was not used to transmit power generated by the projects, provisions in the NTIAP are not applicable. Other concerns raised by some of the comments are issues being considered in the development of the Long Term Intertie Access Policy (LTIAP).

FOR FURTHER INFORMATION CONTACT: Mr. Roy B. Fox, Environmental Coordinator, at 503–230–4261. Or call BPA's Public Involvement office. Telephone numbers, voice/TTY, for the Public Involvement office are: 230–3478 in Portland; Oregon callers may call toll-free 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terry Esvelt, Puget Sound Area Manager, 201 Queen Anne Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–522–6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Room 376, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background

BPA's NTIAP, Section C.3, provides conditions for Intertie access to ensure that providing Assured Delivery or allocating Intertie capacity: (1) Will not interfere with the Administrator's Power Marketing Program or operating limits of the Federal system; (2) will not conflict with existing contractual or other legal obligations; and (3) does " . . . not result in scheduling of energy from resources whose operation will adversely impact fish and wildlife in a manner that results in a substantial decrease in the effectiveness of, or a substantial increase in the need for expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife." Section C.6 goes on to state that to verify consistency with policy, utilities shall provide BPA with a list of resources that are to be operated or that were operated at such hours as access to the Pacific Intertie will be or was provided. Section C.2 of the NTIAP also prohibits access to the Intertie for non-Federal resources that were not operational on September 7, 1984.

In addition, Section D of the NTIAP set forth conditions for Assured Delivery and formula allocation methods. Under Section D.1.c.1., for Assured Delivery, and Section D.2 for formula or hourly allocation, Intertie access is provided if the scheduling utility meets the conditions of Section C (as outlined above). For Assured Delivery, utilities must specify the resource for which they seek Intertie access. This provides BPA with an opportunity to review the resource for potential fish and wildlife concerns. The formula allocation provisions of Section D.2, however, do not require utilities to declare each day which resource will be used on the Intertie, only the amount of surplus energy they wish to transmit. BPA, then, does not have an opportunity to review declared resources prospectively on a day-to-day basis. This makes it difficult to link specific resources to specific sales, except after the fact, if BPA elects to request from the utility information on which resources it was running at any particular time.

Finally, Subsection C.7. provides the opportunity to challenge (1) the presumption that Pacific Northwest resources scheduled for transmission over the BPA-owned portion of the Intertie are being operated consistent with applicable licenses, permits, and other State and Federal laws, or (2) the presumption that operation of these resources is not adversely affecting the

administrator's obligation under the Pacific Northwest Electric Power Planning and Conservation Act to protect, mitigate, and enhance fish and wildlife. The NTIAP further provides that BPA will accept public comment before making a final determination as to whether fish and wildlife, for which the Administrator has responsibilities, are being adversely affected by the operation of the challenged resource.

Pursuant to provisions in the NTIAP, NMFS notified BPA of its challenge of Portland General Electric's (PGE) Sullivan Plant at Oregon City, Oregon. NMFS stated, "In our view, the injury rates at the Sullivan Plant are unacceptably high and maximum feasible fish protection is not being provided." They went on to say, "Therefore, given the magnitude and importance of existing and potential fish production which encounters the project, we believe scheduling of energy on the Intertie from this resource is damaging to fish as well as to BPA actions to protect, mitigate, and enhance fish and should be curtailed."

NMFS also challenged the Sheep Creek hydroelectic projects near Joseph, Oregon, stating, ". . . according to our information, projects on Big and Little Sheep Creeks (FERC Nos. 5572, 4473, 6621) commenced selling power to Pacific Power and Light after September 7, 1984. Therefore, power from Sheep Creek resources should not have access to the Interties for out-of-region sales. Please determine if power from these resources is being transmitted on the Interties, resulting in these resources being inconsistent with the Policy."

BPA published a proposed response to this challenge in the **Federal Register** on February 18, 1987 (52 FR 4928) for public review and comment. BPA received seven comment letters on its proposed response. Three basic concerns were predominant. One, commenters were concerned that BPA and the NTIAP lacked workable enforcement procedures. Two, commenters believed the NTIAP did not prevent "displacement" of one resource by another which caused adverse fish and wildlife impacts. And three, commenters said BPA's proposed response was incomplete.

II. Comments on BPA's Proposed Response

A. Enforcement

Comment: BPA received several comments concerning the adequacy of efforts to monitor and enforce NTIAP provisions. One commented that BPA needs "more workable enforcement procedures" and an "internal procedure for policing compliance," and that BPA should not place the burden of proof on those who challenge a resource under the NTIAP. Another commented that BPA relies too heavily on others to raise challenges under the policy. Two commenters stated that delays in BPA's response to the NMFS challenge indicate that BPA lacks adequate procedures for handling compliance problems under the NTIAP.

Response: BPA acknowledges that its draft response was considerably delayed. The delays, however, are not the result of deficiencies in the enforcement provisions of the policy. Rather, the delays reflect staffing limitations.

The NTIAP is not intended to establish specific procedures for BPA or others to monitor the fish and wildlife effects due to the operation of a particular hydro resource. But neither does BPA rely solely on others to monitor and enforce the NTIAP provisions. Although primary responsibility for evaluating the fish and wildlife effects of a non-Federal resource is with the Federal Energy Regulatory Commission during licensing proceedings, BPA is not precluded from choosing to evaluate resources on a case-by-case basis. Continued evaluation of fish and wildlfie effects is also the responsibility of those Federal and state agencies which have fish and wildlife protection manadates. In the NTIAP, BPA provides an additional forum to evaluate fish and wildlfie impacts to ensure that BPA can meet its fish and wildlife obligations.

B. Displacement

Comment: BPA received several coments that the NTIAP allows utilities to structure their operations such that power generated by resources with adverse fish and wildlife effects would not be subject to Intertie policies. Resources with fish and wildlife adverse effects could serve regional loads, allowing acceptable resources to be used on the Intertie. Commenters concluded the NTIAP does not prevent or discourage the development of resources harmful to fish and wildlife.

Response: BPA agrees that, if desired, utilities could undertake a series of operational actions to avoid scheduling power from a particular resource to the Interties. That is, the NTIAP does not prevent utilities from structuring their operations to schedule power from acceptable resources over the Intertie while serving Northwest loans with injurious resources.

The displacement issue is defined differently for Assured Delivery and formula allocation. Under Assured Delivery (Section D.1) utilities must declare the resource from which power will be exported on the Intertie. This provides BPA with an opportunity to review the potential impacts of the resource. A question here, though, is whether export of the power from the specified resource is made possible only through displacement by a resource that has adverse fish and wildlife impacts. The NTIAP does not deal with this kind of displacement. Under formula allocation (Section D.2), when allocations are made daily for the scheduling of energy the next day, utilities are not required each day to declare which resource will be used on the Intertie, only the amount of surplus energy they wish to transmit. Accordingly, BPA does not have an opportunity to review declared resources prospectively on a day-to-day basis. This makes it difficult to link specific resources to specific sales, except after the fact, if BPA elects to request from the utility information on which resources it was running at any particular time.

Although the NTIAP prohibits Interties access to new hydro resources, displacement is not addressed. In the future, as new resources may be added, the potential for displacement may become more prevalent. Since the NTIAP does not address displacement, displacement cannot be dealt with relative to the challenge made by NMFS. These issues have sufaced in the content of the LTIAP and will be addressed in BPA's decision on a final LTIAP.

C. Incomplete Response

Comment: Several commenters referred to BPA's draft response as incomplete. One commenter suggested that even if it were proper to dismiss portions of the challenge, BPA should have addressed the entire challenge and response for the public review process.

Response: NMFS' letter of April 17, 1986, challenged the Sheep Creek projects and the Sullivan Plant, and raised three questions which were not challenges under the NTIAP. These questions asked how BPA would apply the NTIAP to certain situations: future hydroelectric projects, mainstem Federal projects, and the Bureau of Reclamation's Roza project. BPA notified NMFS by letter on June 4, 1986, that BPA was pursuing NMFS' challenges on the Sullivan Plant and the Sheep Creek project. In that letter, BPA also responded to the three questions. Copies of both the NMFS challenge letter and BPA's June 4, 1986, response were made available to the public.

These letters can be obtained by calling BPA's Public Involvement office.

D. Other Comments

Comment: Many of the commenters offered additional comments. Two commenters supported BPA's response to the NMFS challenge. Two commenters asked that their comments on the NTIAP challenge be incorporated into the comment process, which closed January 16, 1987, on the Intertie Development and Use Draft Environmental Impact Statement (IDU DEIS) and the proposed LTIAP. Another commenter contended that a challenge of the Sheep Creek Projects should not be allowed since the NTIAP does not provide for challenges as to whether or not a resource is an existing resource or a new resource. It was pointed out that Sheep Creek is licensed and has met all applicable State and Federal requirements.

Response: Comment letters requesting incorporation into the IDU EIS and LTIAP process will be considered.

The NTIAP does not contain a section that specifically provides for challenges as to whether or not a project is an "Existing Pacific Northwest Resource." However, NMFS' challenge requested BPA to determine whether power from these resources was being transmitted on the Intertie. This was a legitimate request.

III. Final Response to the NMFS Challenge Under the NTIAP

BPA began its analyses of the NMFS challenge by first examining whether access to the BPA portion of the Intertie had been scheduled for PGE and PP&L from the time the NTIAP was implemented, June 1985, to the time of the NMFS challenge, April 1986. Both utilities were using the BPA-owned Intertie: PGE scheduled an average of 66 megawatts (MW) monthly, while PP&L had scheduled an average of 386 MW monthly. The next step was to determine if the resources in question did or could provide power for transmission over the Intertie.

A. Sullivan Plant (PGE)

Power from the Sullivan Plant enters the regional electrical grid and can be sold to the Pacific Southwest. However, economic and regulatory criteria estabished by the Oregon Public Utility Commissioner dictate that power from the plant should not serve load in the Southwest.

PGE operates the Sullivan Plant as a baseload power source because its varible costs (operation and maintenance costs) are essentially 0 mills/kilowatthour. The fixed costs of the plant also are very low given its age (the plant was built in the early 1900's). The Oregon Public Utility Commissioner requires that such economically efficient resources serve local loads for the benefit of regional ratepayers. Thus, PGE's surplus sales to the Southwest are derived from other, higher cost resources, such as the Centralia, Colstrip, and Boardman coal plants, and power purchases from British Columbia Hydro and Power Authority, BPA, and other Northwest utilities. Additionally, the first 700 MW of PGE's sales to the Southwest flow over its own portion of the Intertie. Use of BPA's Intertie occurs only when PGE's sales exceed its 700 MW line capacity.

Given that the economics of the Sullivan Plant operation dictate regional consumption of its power and consequent operation of the resource regardless of any access to BPA's portion of the Intertie, BPA determines that the output of the plant is not being transmitted over the BPA-owned Intertie. BPA recognizes, however, that PGE is not prevented from structuring its operations to "displace" the power of other resources by using the output of Sullivan Plant. Since the NTIAP does not address displacement, BPA finds that the provisions of the NTIAP relevant to fish and wildlife protection are not applicable to the NMFS challenge. (BPA will consider the issue of displacement in the development of the LTIAP.)

B. Sheep Creek Projects (PP&L)

The Sheep Creek projects began generating power in November 1984, afte the cut-off date for existing Northwest resources under the NTIAP. Section C.2. of the NTIAP prohibits access to non-federal resources that were not operational on the effective date of the NTIAP. The projects, therefore, do not meet the specified definition of "Existing Pacific Northwest Resources." The Sheep Creek projects are located in a remote area of the Wallowa Mountains near Joseph in northeastern Oregon. Under Public Utilities Regulatory Policies Act regulations, PP&L purchases the projects' electrical output at one point of interconnection, and utilizes PP&L's distribution lines to serve its local loads.

The Sheep Creek projects are connected to PP&L's 20.8-kilovolt (kV) local feeder line which, with other 20.8-kV feeder lines, serves PP&L's local customers. Since the maximum generation of the Sheep Creek projects is only about one-half of PP&L's average load in the local area, it is unlikely that any power from these projects could be surplus to the local area. Output from the projects under normal conditions is absorbed by the 20.8-kV feeder in and around the Enterprise and Joseph area. During periods of peak generation from the projects and low loads in the local area, some power may flow into the 69-kV transmission line which serves other isolated areas near Enterprise. This 69-kV transmission line also connects with PP&L's 230-kV transmission line between Enterprise, Oregon, and Walla Walla, Washington. Remaining power, if any, would flow to Walla Walla where PP&L serves loads totaling approximately 140,000 killowatts. PP&L's Walla Walla area system is remotely interconnected with the teminus of the Intertie. The projects' power therefore serves PP&L's local customers.

Given the use of the Sheep Creek projects power to serve PP&L's local load in the vicinity of the plant, BPA determines that Sheep Creek power does not flow over the BPA-owned portion of the Intertie in violation of the NTIAP's restriction to resources existing on the effective date of the policy.

Again, since the NTIAP does not address displacement, the NTIAP does not prevent PP&L from structuring their operations to "displace" the power of other resources by using power from the Sheep Creek projects.

Issued in Portland, Oregon, on August 3, 1987.

Steven G. Hickok,

Acting Administrator, Bonneville Power Administration.

[FR Doc. 87-18480 Filed 8-12-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL85-19-117 Project Nos. 1388, 1389, 1390, 3259, and 3272]

Request for Comments on the Cumulative Environmental Impacts of Proposed Hydropower Development in the Mono Lake Basin, California/Nevada

August 6, 1987.

The Federal Energy Regulatory Commission (Commission) requests comments regarding cumulative environmental impacts [1] that may occur

[1] Cumulative impacts are the impacts on the environment which result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or nonfederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

as a result of multiple hydropower developments proposed for the Mono Lake Basin, located in Mono County, California, and in Mineral County, Nevada.

Information Requested

Interested persons and agencies are invited to identify target resources, which are important resources that could be adversely affected by two or more proposed hydropower projects, to describe the distribution of these resources, and to include substantive evidence documenting the interaction between the target resources and the proposed hydropower projects described in this notice. The staff requests this information to update the Commission's records on cumulative impacts in the basin which were collected since 1983. Substantive evidence should include, but should not be limited to, the results of studies, natural resource management policies, and reports from state and local resource agencies.

The staff will evaluate those target resources included in this notice, and any additional target resources identified by interested persons and agencies.

Pending License Applications

As of June 29, 1987, the folowing license applications for hydropower projects were pending before the Commission.

Project number	Project name	Type of application
1388-001.	Poole Project †	Major license.
1389-001.	Rush Creek †	Major license.
1390-001.	Lundy Project †	Major license.
3259-002.	Paoha Project	Minor license.
3272-002.	Leggett Project	Major license.

† Existing licensed projects that are applying for new licenses.

Descriptions of Projects

Poole Project: The project would consist of the following existing facilities: (1) The 45-foot-high, 600-foot-long rockfilled Saddlebag dam, impounding a 317-acre reservoir; (2) the 27-foot-high, 270-foot-long rockfilled Tioga dam, impounding a 73-acre reservoir; (3) the 19-foot-high, 50-foot-long concrete Tioga Auxilliary dam; (4) the 17-foot-high, 437-foot-long rockfilled Rhinedollar dam, impounding a 66-acre reservoir; (5) the concrete intake structure at the Rhinedollar dam; (6) the 2,452-foot-long, 48-inch-diameter pipeline; (7) the 3,680-foot-long, 42-inch to 28-inch-diameter penstock; (8) the Poole powerhouse containing one generating unit with a rated capacity of 10.0 megawatts; (9) the 21.7-mile-long, 115-kilovolts (kV) transmission line from the Poole powerhouse to the Rush Creek powerhouse; and (10) appurtenant facilities. The average annual energy generation is estimated to be 29 million kilowatthours.

Rush Creek Project: The project would consist of the following existing facilities: (1) Rush Meadows reservoir with a surface area of 185 acres and a usable storage capacity of 5,277 acre-feet at maximum reservoir elevation 9,416 feet; (2) A 463-foot-long, 50-foot-high, concrete arch dam on Rush Creek having an overflow side channel spillway; (3) Gem Lake reservoir with a surface area of 282 acres and a usable storage capacity of 17,228 acre-feet at maximum reservoir elevation 9,052 feet; (4) a 688-foot-long, 80-foot-high, multiple arch, concrete dam at Rush Creek having an overflow spillway; (5) Agnew lake reservoir with a surface area of 40 acres and a usable storage capacity of 810 acre-feet at maximum reservoir elevation 8,496 feet; (6) a 278-foot-long, 30-foot-high multiple arch, concrete dam on Rush Creek having an overflow spillway; (7) a 48-inch-diameter, 4,584-foot-long steel pipe from Gem dam to a valve house below Agnew dam; (8) a 30-inch-diameter, 575-foot-long steel pipe from Agnew dam to the valve house; (9) two 4,280-foot-long steel penstocks, varying in diameter from 30 inches to 28 inches; from the valve house to Rush Creek powerhouse; (10) the Rush Creek powerhouse, located at elevation 7,249 feet, containing two generating units with a total capacity of 8,400 kilowatts (kW); (11) a switch-yard adjacent to the powerhouse; and (12) a 49.6 mile-long, 115-kV transmission line supported on woodpole, H-frame structures, extending to the control substation.

Lundy Project: The project would consist of the following existing facilities: (1) The existing 33-foot-high and 690-foot-long earth and rockfilled Lundy dam, impounding a 132-acre reservoir; (2) a 270-foot-long concrete intake structure; (3) a 12,000-foot-long, 48-inch-diameter pipeline; (4) a 3,000-foot riveted penstock, varying diameter; (5) a powerhouse containing two generating units, each rated at 1,500 kW; and (6) a 7.1-mile-long transmission line; and (7) appurtenant facilities. The average annual energy generation is estimated to be 9.3 million kWh.

Paoha Project: The proiposed project would consist of the following facilities: (1) An intake structure on an existing canal of Southern California Edison Company's Lundy Project No. 1390; (2) a 920-foot-long, 42-inch-diameter steel penstock; (3) a powerhouse containing one generating unit rated at 370 kW; and (4) a 700-foot-long transmission line. The average annual energy generation is estimated to be 750,000 kWh.

Leggett Project: The proposed project would consist of the following facilities: (1) A 2-foot-high, 45-foot-long rockfill diversion and intake structure to be located in the existing tailrace pool of Southern California Edison Company's Project No. 1388; (2) a 2-foot-high, 10-foot-long stoplog diversion structure on Lee Vining Creek; (3) an 8,700-foot-long, 40-inch-diameter steel penstock; (4) a powerhouse containing one 1,100-kW generating unit and one mobile 1,100-kW generating unit; and (5) a 300-foot-long transmission line. The average annual energy generation is estimated to be 6.6 million kWh.

Preliminary Review of Target Resources

The staff has examined the five pending applications for license for hydropower development and has studied comments from federal and state natural resource agencies and the public concerning the potential for cumulative impacts from the proposed projects. The staff's preliminary analysis has identified resident trout, riparian-associated wildlife, local economy, riparian vegetation, aesthetics, and recreation as the target resources in the Mono Lake Basin.

The staff has concluded that the target resources of the Mono Lake Basin would be the same as those that were addressed in the Owens River Basin, October 1986, Final Environmental Impact Statement.

Assessment of Cumulative Impacts

In addition to the information available on the five pending applications for license in the Mono Lake Basin, the staff will review any data provided by interested persons and agencies addressing how the five pending projects may have cumulative impacts on the six identified resources, or other target resources of the region not yet identified by the staff.

Comments should be filed by the close of business September 21, 1987, and should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Docket No. EL85-19-117 on all comments.

For further specific information, please contact Lynn R. Miles, Sr. River Basin Coordinator, at (202) 376–9414.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18365 Filed 8–12–87; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 346–018 et al.]

Hydroelectric Applications; Filed With the Commission; Minnesota Power & Light Co. et al.

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: New Capacity License Amendment.

b. Project No.: 346–018.

c. Date Filed: November 17, 1986.

d. Applicant: Minnesota Power & Light Company.

e. Name of Project: Blanchard.

f. Location: Mississippi River, Morrison County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Douglas W. Peterson, Attorney, Minnesota Power & Light Company, 30 West Superior Street, Duluth, MN 55802, (218) 723–3961.

i. FERC Contact: Peter K. Lyse, (202) 376–9479.

j. Comment Date: September 18, 1987.

k. Description of Project: The current license for the Blanchard Project was issued May 20, 1980, for a term expiring August 24, 2003. The existing project facilities consist of: (1) A reservoir with a surface area of approximately 1,150 acres and a gross storage capacity of approximately 16,100 acre-feet; (2) a concrete gravity dam, approximately 750 feet long and 45 feet high, flanked by earth dikes on each side; (3) a powerhouse containing two generating units, each rated at 6,000 kW; and (4) appurtenant facilities.

The license proposes to install a third generating unit of 6,000 kW capacity in the existing powerhouse. The layout and structural configuration of the existing powerhouse provides for the later installation of a third generating unit. The estimated additional average generation of 18.4 MWh would be used in the licensee's interconnected system.

l. This notice also consists of the following standard paragraphs: B and C.

2 a. Type of Application: Transfer of License.

b. Project No.: 2548–014.

c. Date Filed: July 10, 1987.

d. Applicant: Lyons Falls Hydroelectric, Inc. (Transferee), and North Country Hydro Associates (Transferor).

e. Name of Project: Lyons Falls Project.

f. Location: On the Moose River and the Black River in Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact:

Mr. John T. Ferguson, II, Senior Counsel, Pulp and Paper, Georgia-Pacific Corporation, 320 Post Road, Darien, CT 06820, (203) 656–6271

Lyons Falls Hydroelectric, Inc., c/o Mr. James G. Wheeler, Jr., Downs, Rachlin & Martin, 9 Prospect Street, St. Johnsbury, VT 05819, (802) 748–8324

Pascal Brun, North Country Hydro Associates, 125 Wolf Road, Albany, NY 12205, (514) 282–9551

i. FERC Contact: Thomas O. Murphy, (202) 376–9829.

j. Comment Date: September 10, 1987.

k. Description of Project: On May 6, 1986, a license was issued to the Georgia-Pacific Corporation to operate and maintain the Lyons Falls Project No. 2548. On February 10, 1987, a joint request for a transfer of the license from Georgia-Pacific Corporation to Lyons Falls Hydroelectric, Inc. was filed. On June 10, 1987, the Commission issued an order approving the transfer subject to certain conditions.

On July 10, 1987, a joint request for a transfer of the license from Lyons Falls Hydroelectric, Inc. and the North Country Hydro Associates was filed. As of July 10, 1987, all of the conditions of the June 10, 1987, order approving transfer of license have not been satisfied. Approval of the July 10, 1987, transfer request will be granted only after all conditions of the June 10, 1987, order are satisfied.

The joint applicants have filed the July 10, 1987, transfer request in order to obtain the financing necessary to construct, operate, and maintain the Lyons Falls Project.

l. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 10425–000.

c. Date Filed: June 2, 1987.

d. Applicant: Steven J. Wight.

e. Name of Project: Anderson Creek Project.

f. Location: In Snoqualmie-Mt. Baker National Forest, on Anderson Creek, in Whatcom County, Washington. Township 39N and Range 8E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Steven J. Wight, 104 E. Maple, Bellingham, WA 98225, (206) 733–8987.

i. FERC Contact: Thomas A. Dean, (202) 376–9275.

j. Comment Date: September 10, 1987.

k. Competing Application:

Project No. 10424–000

Date Filed: June 2, 1987.

l. Description of Project: The proposed project would consist of: (1) A 8-foot-high diversion structure with an inlet elevation of 3,200 feet msl; (2) a penstock 4,900 feet long and 20 inches in diameter leading to; (3) a powerhouse at elevation 2,000 feet msl containing two generating units with a total installed capacity of 2,000 kW operating at 1,200 feet of hydraulic head; (4) a tailrace; and (5) a 600-foot-long, 55-kV transmission line. The applicant estimates the average annual energy production to be 9.1 MWh. The approximate cost of the studies under the permit would be $40,000.

m. Purpose of Project: Applicant intends to sell the power generated at the proposed facility to Puget Power of Bellevue, Washington.

n. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. Type of Application: Preliminary Permit.

b. Project No: 10424–000.

c. Date Filed: June 2, 1987.

d. Applicant: Energy Alternatives.

e. Name of Project: Anderson Creek Project.

f. Location: In Snoqualmie-Mt. Baker National Forest, on Anderson Creek, in Whatcom County, Washington. Township 39N and Range 8E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: Alan K. VanHook, 6286 North Fork Road, Deming, WA 98244, (206) 592–5148.

i. FERC Contact: Thomas A. Dean, (202) 376–9275.

j. Comment Date: September 14, 1987.

k. Competing Application:

Project No. 10425–000.

Date Filed: June 2, 1987.

l. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion weir with an inlet elevation of 3,100 feet msl; (2) a penstock 4,800 feet long and 24 inches in diameter leading to; (3) a powerhouse at elevation 2,000 feet msl containing a single generating unit with a capacity of 3,500 kW operating at 1,100 feet of hydraulic head; (4) a tailrace; and (5) a 6-mile-long, 110-kw transmission line. The applicant estimates the average annual energy production to be 12 GWh. The approximate cost of the studies under the permit would be $50,000.

m. Purpose of Project: Applicant intends to sell the power generated at the proposed facility to Puget Sound Power and Light of Washington.

n. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

a. Type of Application: Amendment of License.

b. Project No: 2370–014.

c. Date Filed: July 7, 1987.

d. Applicant: Pennsylvania Electric Company.

e. Name of Project: Deep Creek Project.

f. Location: On Deep Creek near the Village of Oakland, Garrett County, Maryland.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: Mr. William J. Madden, Jr., Bishop, Liberman, Cook, Purcell, Reynolds, 1200 17th Street, NW, Washington, DC 20036, (202) 857–9800.

i. FERC Contact: Michael Dees, (202) 376–9830.

j. Comment Date: September 18, 1987.

k. Description of Project: The proposed amendment to Pennsylvania Electric Company's existing licensed Project No. 2370 would consist of authorization to issue boat docking permits in excess of the number for which the licensee is authorized by article 35 of its license for the Deep Creek Project. Authority to issue the following boat dock permits at the Villages of Wisp has been requested: two common dock facilities each containing 30 slips, ten shared dock facilities each containing two slips for use by single families, and two storage racks each containing space for 15 small boats.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing applicaton or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. [A copy of the application may be obtained by agencies directly from the Applicant.] If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 10, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18500 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8826–002]

Surrender of Preliminary Permit; Mega Renewables

August 7, 1987.

Take notice that Mega Renewables,

permittee for the Young Falls Project No. 8826, located on the Pit River, Lassen County, California, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 20, 1985, and would have expired on May 31, 1988. The permittee states that analysis of the Young Falls Project indicated that it was not economically feasible for development.

The permitee filed the request on July 27, 1987, and the preliminary permit for Project No. 8826 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18366 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8829-002]

Surrender of Preliminary Permit; Mega Renewables

August 7, 1987.

Take notice that Mega Renewables, permittee for the Pit Falls Project No. 8829, located on the Pit River, Shasta County, California, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 7, 1985, and would have expired on May 31, 1988. The permittee states that analysis of the Pit Falls Project indicated that it was not economically feasible for development.

The permittee filed the request on July 27, 1987, and the preliminary permit for Project No. 8829 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR § 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18367 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-718-003]

Application for Commission Recertification of Qualifying Status of a Small Power Production Facility; Koppers Co.

August 7, 1987.

On June 22, 1987, Koppers Company (Applicant), of 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Montgomery, Pennsylvania. The facility as originally proposed was to consist of a steam generator and an extraction steam turbine generator set. The net electric power production capacity as originally proposed was to be 6600 KW. The primary energy source is wood waste in the form of wood chips and used railroad crossties.

By order issued November 20, 1985, the Director of Office of Electric Power Regulation granted certification of the facility as a small power production facility under Docket No. QF85-718-000.

The recertification is requested due to a change in the net electric power production capacity of the facility from 6600 KW to 8850 KW. The operation of the facility will begin December 1, 1987. All other characteristics remain unchanged.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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.

[FR Doc. 87-18368 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-54-000]

Filing; Alamito Co. and Tucson Electric Power Co. v. San Diego Gas & Electric Co.

August 7, 1987.

Take notice that on July 31, 1987, Alamito Company (Alamito) and Tucson Electric Power Company (TEP) tendered for filing pursuant to Rules 207, 212, and 217 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207, 385.212, and 385.217, a petition for declaratory order and motion for summary judgment requesting the Commission to confirm and rule summarily that San Diego Gas & Electric Company (San Diego) is obligated to pay Alamito under Phase Five of a Ten-Year Power Sale and Interconnection Agreement demand charges based on a contract demand of 400 mw.

Alamito and TEP state that San Diego unilaterally and without prior notice has withheld, and continues to refuse to pay, the demand charge of 300 of the 400 mw of power sold under Phase Five. Alamito and TEP also state that San Diego, as of this date, has withheld approximately $6.3 million in demand charges due under Phase Five.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87-18370 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-13-20-000 and TA87-13-20-001]

Proposed Changes in FERC Gas Tariff; Algonquin Gas Transmission Co.

August 6, 1987.

Take notice that Algonquin Gas Transmission Company (Algonquin) on August 4, 1987 tendered for filing the

following sheets to Second Revised Volume No. 1 of its FERC Gas Tariff:

To Be Effective September 1, 1987

Twentieth Revised Sheet No. 201
Ninth Revised Sheet No. 231

To Be Effective August 1, 1987

Substitute Thirteenth Revised Sheet No. 205

Algonquin states that such tariff sheets are being filed pursuant to Algonquin's Purchased Gas Adjustment Provision as set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 and pursuant to section 7 of its Rate Schedule F-4 to reflect (i) an adjustment to amortize the June 30, 1987 balance in its Unrecovered Purchased Gas Cost Account and (ii) an adjustment to reflect a change in purchased gas cost to be charged by its supplier, Texas Eastern Transmission Corporation. Algonquin further states that a copy of this filing is being served upon each affected party and state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 13, 1987. 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. 87-18371 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-559-000]

Filing; Appalachian Power Co.

August 7, 1987.

Take notice that on August 3, 1987, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliated Appalachian Power Company (Appalachian), which is an AEP affiliated operating subsidiary, a Notice of Cancellation or Termination of the Concurrent Exchange Service Agreement, dated October 13, 1953, between Appalachian Electric Power Company and Bristol, Virginia Utilities Board, Agent of City of Bristol, Virginia (Bristol Agreement), and a Notice of Cancellation or Termination of the letter agreement dated October 8, 1953, between Appalachian Electric Power Company and Tennessee Valley Authority, designated TV15617A.

Under the Bristol Agreement and TV15617A, Appalachian concurrently delivers energy received from TVA to City of Bristol (City) at City's water filter plant. City wishes to terminate this arrangement effective July 1, 1987.

An effective date of July 1, 1987 and a waiver of the Commission's 60-day filing requirement has been requested. Copies of the filing were served upon the Public Service Commission of West Virginia and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87-18372 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-561-000]

Filing; Arizona Public Service Co.

August 7, 1987.

Take notice that on August 3, 1987, Arizona Public Service Company (APS) tendered for filing a new Wholesale Power Agreement (New Agreement) with Citizens Utilities Company (Citizens), along with two other Agreements that supplement the New Agreement, which are entitled "Indemnity Regarding the Non-Application of the Tax Charge" (Indemnity Agreement) and "Supplement No. 1, Supplemental Peaking Energy Schedule to the Wholesale Power Agreement" (Supplemental Energy Agreement).

The New Agreement is intended to supersede the existing Wholesale Power Supply Agreement (Original Agreement), FERC Rate Schedule No. 50, and merely organizes into one concise easily referenced document all the changes, and amendments and current revisions to the Original Agreement that have taken place over time much the same way as a conformed agreement.

The Indemnity Agreement serves to indemnify APS against any potential "sales" tax liability that may be assessed against APS in regard to certain revenues collected under the New Agreement and Original Agreement.

The Supplemental Energy Agreement provides that APS supply supplemental peaking energy to Citizens, in excess of its requirements under the New Agreement, in order to reduce the otherwise operational time of combustion turbine units that Citizens is in the process of installing at its Nogales, Arizona service area.

Copies of this filing have been sent to Citizens and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87-18373 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-464-000]

Request Under Blanket Authorization; Arkla Energy Resources, a Division of Arkla, Inc.

August 7, 1987.

Take notice that on July 27, 1987, Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87-464-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to relocate and upgrade three existing town border stations and to abandon facilities that largely would be used by Arkansas Louisiana Gas

Company (ALG), a division of Arkla, Inc., in the distribution of natural gas in the towns of Thomas, Fay and Drummod, Oklahoma, and environs, under the certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to section 7 of the Naural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

It is stated that AER proposes to: (1) Relocate and upgrade a skid-mounted town border station from the terminus of AER's Line 2–D to the existing interconnection of Line 2–D and Line 2 and to abandon and transfer Line 2–D to ALG for continued use in the retail delivery of gas to consumers in the Thomas, Oklahoma area; (2) construct and operate a new tap and town border station, to abandon an existing town border station at the terminus of AER's Line 2–E, and to abandon and transfer Line 2–E to ALG for the retail distribution of gas in the Fay, Oklahoma area; and (3) relocate and upgrade a skid-mounted town border station from the terminus of AER's Line 2–J to the existing interconnection of Line 2–J and Line 2 and to abandon and transfer Line 2–J to ALG for continued use in the retail delivery of gas to consumers in the Drummond, Oklahoma area. AER states that the projected cost of the proposed rearrangements and construction is $57,671.

AER states that the proposed abandonments would have no impact on service to existing consumers, all of whom are currently, and would continue to be, served by ALG. AER further states that relocating and upgrading these three town border stations would aid in the efficient, safe and reliable transportation and distribution of gas in the affected service areas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18374 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP87–473–000]

Application; Carnegie Natural Gas Co.

August 6, 1987.

Take notice that on July 31, 1987, Carnegie Natural Gas Company (Applicant), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP87–473–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the sale of natural gas to Columbia Gas of Ohio (COH) and to Columbia Gas of Pennsylvania (CPA), (2) approval of a new Rate Schedule CDS and tariff sheets proposed to be included as part of Applicant's FERC Gas Tariff first revised volume No. 1 for the aforesaid sales, and (3) the construction of a new delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it seeks authorization to sell to COH a maximum annual sales quantity of 7,300,000 dt equivalent of gas with a maximum daily entitlement quantity of 20,000 dt equivalent of gas, and to sell to CPA a maximum annual sales quantity of 5,475,000 dt equivalent of gas with a maximum daily entitlement quantity of 15,000 dt equivalent of gas. Applicant indicates that each sale is for a primary term of ten years and year to year thereafter until terminated by either party. Applicant proposes to make such sales on a firm basis pursuant to rates contained in its proposed new Rate Schedule CDS, attached as Exhibit P to the application, which would offer year-round contract demand service to any distributor or pipeline company.

To make the sale to CPA, Applicant proposes to construct and operate a new meter and regulator station on its Pennsylvania pipeline system in Jefferson Borough, Allegheny County, Pennsylvania. Applicant estimates the cost of the new delivery point to be $200,000.

Applicant states that the sale to COH would be made at an existing delivery point of Texas Eastern Transmission Corporation in Fairfield County, Ohio (Hooker). Applicant indicates that the Hooker delivery point is an existing delivery point for Columbia Gas Transmission Corporation (Columbia). It is further indicated, that gas sold by applicant to COH would be received by Columbia for delivery to COH at or near Columbus, Ohio. Applicant states that Texas Eastern would file an application to amend the existing service agreement between applicant and Texas Eastern to add the Hooker delivery point. Applicant indicates that gas to be sold to COH and CPA would be provided from Applicant's system supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18375 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST87-2739-000 et al.]

Self-Implementing Transactions; Colorado Interstate Gas Corp. et al.

August 7, 1987.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before August 27, 1987, 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 § 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-2739	Colorado Interstate Gas Co	Colony Pipeline Corp	06-01-87	B		
ST87-2740	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp.	06-01-87	C		
ST87-2741	Delhi Gas Pipeline Corp	Arkansas Oklahoma Gas Corp	06-01-87	C	10-29-87	21.00
ST87-2742	Northern Natural Gas Co	NGC Intrastate Pipeline Co	06-01-87	B		
ST87-2743	Northern Natural Gas Co	Brooklyn Union Gas Co	06-01-87	B		
ST87-2744	Northern Natural Gas Co	Houston Pipe Line Co	06-01-87	B		
ST87-2745	Northern Natural Gas Co	Houston Pipe Line Co	06-01-87	B		
ST87-2746	Columbia Gulf Transmission Co	Columbia Gas of Ohio, Inc	06-01-87	B		
ST87-2747	Columbia Gulf Transmission Co	Columbia Gas of Ohio, Inc	06-01-87	B		
ST87-2748	Columbia Gulf Transmission Co	Natural Gas Pipeline Co. of America	06-01-87	G		
ST87-2749	Columbia Gulf Transmission Co	Northern Indiana Pub. Serv. Co., et al.	06-01-87	B		
ST87-2750	Columbia Gulf Transmission Co	South Georgia Natural Gas Co	06-01-87	B		
ST87-2751	Columbia Gulf Transmission Co	Philadelphia Gas Works, et al	06-01-87	B		
ST87-2752	Columbia Gulf Transmission Co	Louisiana Intrastate Gas Corp	06-01-87	B		
ST87-2753	Transwestern Pipeline Co	Southern California Gas Co	06-01-87	B		
ST87-2754	Louisiana Resources Co	Louisiana Gas Marketing Co	06-01-87	C	10-29-87	26.43
ST87-2755	Natural Gas Pipeline Co. of America	Wisconsin Southern Gas Co., Inc	06-01-87	B		
ST87-2756	United Gas Pipe Line Co	Wisconsin Public Serv. Corp., et al.	06-01-87	B		
ST87-2757	United Gas Pipe Line Co	Baltimore Gas & Elect. Co., et al	06-01-87	B		
ST87-2758	Louisiana Resources Co	Florida Gas Transmission Co	06-01-87	C	10-29-87	26.43
ST87-2759	Williams Natural Gas Co	Union Gas System, Inc	06-01-87	B		
ST87-2760	Trunkline Gas Co	Consumers Power Co	06-01-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-2761	Trunkline Gas Co	Consumers Power Co	06-01-87	B		
ST87-2762	Trunkline Gas Co	Consumers Power Co	06-01-87	B		
ST87-2763	Trunkline Gas Co	Consumers Power Co	06-01-87	B		
ST87-2764	Trunkline Gas Co	Consumers Power Co	06-01-87	B		
ST87-2765	Trunkline Gas Co	Consumers Power Co	06-01-87	B		
ST87-2766	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	06-01-87	B		
ST87-2767	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co., et al	06-01-87	B		
ST87-2768	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	06-01-87	B		
ST87-2769	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	06-01-87	B		
ST87-2770	Transcontinental Gas Pipe Line Corp	Mississippi Fuel Co	06-01-87	B		
ST87-2771	Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	06-01-87	B		
ST87-2772	Texas Eastern Transmission Corp	Columbia Gas of Ky, Inc., et al	06-01-87	B		
ST87-2773	Texas Eastern Transmission Corp	North Alabama Gas District	06-01-87	B		
ST87-2774	Texas Eastern Transmission Corp	Oxford Natural Gas Co	06-01-87	B		
ST87-2775	Texas Eastern Transmission Corp	Bayou Industrial Gas Corp	06-01-87	B		
ST87-2776	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	06-01-87	B		
ST87-2777	Tennessee Gas Pipeline Co	Consolidated Edison Co. of NY, Inc.	06-01-87	B		
ST87-2778	Tennessee Gas Pipeline Co	Dayton Power & Light Co., et al	06-01-87	B		
ST87-2779	Tennessee Gas Pipeline Co	Clinton Newberry Nat. Gas Authority.	06-01-87	B		
ST87-2780	Tennessee Gas Pipeline Co	Cincinnati Gas & Elect. Co., et al	06-01-87	B		
ST87-2781	Tennessee Gas Pipeline Co	Baltimore Gas & Elect. Co., et al	06-01-87	B		
ST87-2782	Northern Natural Gas Co	Apache Transmission Co	06-01-87	B		
ST87-2783	Northern Natural Gas Co	West Texas Gas, Inc	06-01-87	B		
ST87-2784	Northern Natural Gas Co	West Texas Gas, Inc	06-01-87	B		
ST87-2785	Northern Natural Gas Co	West Texas Gas, Inc	06-01-87	B		
ST87-2786	Panhandle Eastern Pipe Line Co	Ohio Gas Co	06-01-87	B		
ST87-2787	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	06-01-87	B		
ST87-2788	Panhandle Eastern Pipe Line Co	Ohio Gas Co	06-01-87	B		
ST87-2789	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	06-01-87	B		
ST87-2790	Panhandle Eastern Pipe Line Co	Indiana Gas Co., Inc	06-01-87	B		
ST87-2791	Panhandle Eastern Pipe Line Co	Ohio Valley Gas Corp	06-01-87	B		
ST87-2792	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	06-01-87	B		
ST87-2793	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	06-01-87	B		
ST87-2794	Gas Gathering Corp	Northcott Exploration Co., Inc	06-01-87	G-EU		
ST87-2795	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	06-02-87	B		
ST87-2796	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co.	06-02-87	B		
ST87-2797	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co.	06-02-87	B		
ST87-2798	Panhandle Eastern Pipe Line Co	Peoples Natural Gas Co	06-02-87	B		
ST87-2799	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-02-87	B		
ST87-2800	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-02-87	B		
ST87-2801	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-02-87	B		
ST87-2802	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-02-87	B		
ST87-2803	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-02-87	B		
ST87-2804	Texas Gas Transmission Corp	Union Gas Co. of KY	06-02-87	B		
ST87-2805	Texas Gas Transmission Corp	Union Gas Co. of AR	06-02-87	B		
ST87-2806	Texas Gas Transmission Corp	Enron Industrial Natural Gas Co	06-02-87	B		
ST87-2807	Texas Gas Transmission Corp	Pennsylvania Gas and Water Co	06-02-87	B		
ST87-2808	Valero Transmission Co	Transwestern Pipeline Co	06-02-87	C		
ST87-2809	Valero Transmission Co	Florida Gas Transmission Co	06-03-87	C		
ST87-2810	Mountain Fuel Resources, Inc	Moutain Fuel Supply Co	06-03-87	B		
ST87-2811	Houston Pipe Line Co	Natural Gas Pipeline Co. of America.	06-03-87	C		
ST87-2812	Houston Pipe Line Co	Granite State Gas Transmission, Inc.	06-03-87	C		
ST87-2813	Louisiana Resources Co	Philadelphia Gas Works, et al	06-03-87	C	10-31-87	7.5
ST87-2814	Louisiana Resources Co	Transcontinental Gas Pipe Line Corp.	06-03-87	C	10-31-87	26.43
ST87-2815	Louisiana Resources Co	Transcontinental Gas Pipe Line Cor.	06-03-87	C	10-31-87	26.43
ST87-2816	Natural Gas Pipeline Co. of America	Southern California Gas Co	06-03-87	B		
ST87-2817	Oasis Pipe Line Co	Natural Gas Pipeline Co. of America.	06-03-87	C		
ST87-2818	Panhandle Gas Co	Granite State Gas Transmission, Inc.	06-03-87	D		
ST87-2819	Sea Robin Pipeline Co	Wellhead Ventures Corp	06-03-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-2820	Sea Robin Pipeline Co	Quivira Gas Co	06-03-87	B		
ST87-2821	Sea Robin Pipeline Co	Memphis Light, Gas and Water Division.	06-03-87	B		
ST87-2822	Sea Robin Pipeline Co	Washington Gas Light Co., et al	06-03-87	B		
ST87-2823	Tennessee Gas Pipeline Co	Boston Gas Co	06-03-87	B		
ST87-2824	Tennessee Gas Pipeline Co	T.W. Phillips Gas & Oil Co	06-03-87	B		
ST87-2825	Tennessee Gas Pipeline Co	Essex County Gas Co	06-03-87	B		
ST87-2826	Tennessee Gas Pipeline Co	Channel Industries Gas Co	06-03-87	B		
ST87-2827	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	06-03-87	B		
ST87-2828	Williams Natural Gas Co	KPL Gas Service Co	06-03-87	B		
ST87-2829	Blue Dolphine Pipe Line Co	DOW Chemical Co	06-03-87	G-EU		
ST87-2830	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2831	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2832	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2833	Consolidated Gas Transmission Corp	Baltimore Gas and Electric Co	06-04-87	B		
ST87-2834	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2835	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-04-87	B		
ST87-2836	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	06-04-87	B		
ST87-2837	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-04-87	B		
ST87-2838	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2839	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2840	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2841	Consolidated Gas Transmission Corp	Niagara Mohawk Power Crop	06-04-87	B		
ST87-2842	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-04-87	B		
ST87-2843	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-04-87	B		
ST87-2844	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	06-04-87	B		
ST87-2845	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2846	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2847	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2848	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2849	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2850	Consolidated Gas Transmission Corp	Hope Gas, Inc	06-04-87	B		
ST87-2851	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-04-87	B		
ST87-2852	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-04-87	B		
ST87-2853	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2854	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2855	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2856	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2857	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2858	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2859	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2860	Consolidated Gas Transmission Corp	New York State Electric and Gas Co.	06-04-87	B		
ST87-2861	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2862	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-04-87	B		
ST87-2863	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-04-87	B		
ST87-2864	El Paso Natural Gas Co	El Paso Hydrocarbons Co	06-04-87	B		
ST87-2865	Northern Natural Gas Co	San Diego Gas & Electric Co	06-03-87	B		
ST87-2866	Northern Natural Gas Co	Michigan Consolidated Gas Co	06-03-87	B		
ST87-2867	Tennessee Gas Pipeline Co	Bridgeline Gas Distribution Co	06-04-87	B		
ST87-2868	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	06-04-87	B		
ST87-2869	Tennessee Gas Pipeline Co	Long Island Lighting Co	06-04-87	B		
ST87-2870	Tennessee Gas Pipeline Co	Philadelphia Elect. Co., Et al	06-04-87	B		
ST87-2871	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	06-04-87	B		
ST87-2872	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	06-04-87	B		
ST87-2873	Tennessee Gas Pipeline Co	Quivira Gas Co	06-04-87	B		
ST87-2874	Channel Industries Gas Co	Southern California Gas Co	06-04-87	C		
ST87-2875	Natural Gas Pipeline Co. of America	People Gas Light & Coke Co	06-04-87	B		
ST87-2876	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	06-04-87	B		
ST87-2877	Natural Gas Pipeline Co. of America	Illinois Power Co	06-04-87	B		
ST87-2878	Cranberry Pipeline Corp	Tennessee Gas Pipeline Co	06-05-87	C	1-02-87	65.00
ST87-2879	Cranberry Pipeline Corp	Cabot Corp	06-05-87	C	11-02-87	65.00
ST87-2880	Tennessee Gas Pipeline Co	New Jersey Natural Gas Co	06-05-87	B		
ST87-2881	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	06-05-87	B		
ST87-2882	Iowa-Illinois Gas & Electric Co	Natural Gas Pipeline Co. of America.	06-05-87	G(HT)		
ST87-2883	Taft Pipeline Co	Northern Gas Co	06-05-87	C	11-02-87	9.6
ST87-2884	Northern Natural Gas Co	Southern California Gas Co	06-05-87	B		
ST87-2885	Northern Natural Gas Co	NGP Pipeline Co	06-05-87	B		
ST87-2886	Northern Natural Gas Co	Sunshine Energy Co	06-05-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-2887	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-06-87	B		
ST87-2888	Panhandle Eastern Pipe Line Co	Iowa-Illinois Gas & Elect. Co., et al.	06-06-87	B		
ST87-2889	Trunkline Gas Co	Northern Indiana Public Service Co.	06-06-87	B		
ST87-2890	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	06-06-87	B		
ST87-2891	Panhandle Eastern Pipe Line Co	Northern Illinois Gas Co	06-06-87	B		
ST87-2892	Equitable Gas Co	Equitable Gas Co. (LDC)	06-08-87	B		
ST87-2893	Equitable Gas Co	Equitable Gas Co. (LDC)	06-08-87	B		
ST87-2894	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	06-08-87	B		
ST87-2895	Texas Eastern Transmission Corp	City of Kennett	06-08-87	B		
ST87-2896	Texas Eastern Transmission Corp	Elizabethtown Gas Co	06-08-87	B		
ST87-2897	Texas Eastern Transmission Corp	Humble Gas System, Inc	06-08-87	B		
ST87-2898	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	06-10-87	B		
ST87-2899	Natural Gas Pipeline Co. of America	Iowa Electric Light & Power Co	06-10-87	B		
ST87-2900	Natural Gas Pipeline Co. of America	Illinois Power Co	06-10-87	B		
ST87-2901	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	06-10-87	B		
ST87-2902	Natural Gas Pipeline Co. of America	Central Illinois Light Co	06-10-87	B		
ST87-2903	ANR Pipeline Co	Wisconsin Public Service Co	06-10-87	B		
ST87-2904	ANR Pipeline Co	Wisconsin Natural Gas Co	06-10-87	B		
ST87-2905	ANR Pipeline Co	Michigan Consolidated Gas Co	06-10-87	B		
ST87-2906	Tennessee Gas Pipeline Co	East Ohio Gas Co., et al	06-10-87	B		
ST87-2907	Colorado Interstate Gas Co	GGSI Gas Co	06-11-87	B		
ST87-2908	Louisiana Intrastate Gas Corp	Texas Gas Transmission Corp	06-11-87	C	11-08-87	22.40
ST87-2909	Texas Gas Transmission Corp	Louisiana Gas System, Inc	06-11-87	B		
ST87-2910	Texas Gas Transmission Corp	Indiana Gas Co., Inc	06-11-87	B		
ST87-2911	ANR Pipeline Co	Michigan Consolidated Gas Co	06-12-87	B		
ST87-2912	ANR Pipeline Co	Michigan Consolidated Gas Co	06-12-87	B		
ST87-2913	Natural Gas Pipeline Co. of America	Southern California Gas Co	06-12-87	B		
ST87-2914	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co.	06-12-87	B		
ST87-2915	Northern Natural Gas Co	North Shore Gas Co	06-12-87	B		
ST87-2916	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-12-87	B		
ST87-2917	Panhandle Eastern Pipe Line Co	Indiana Gas Co., Inc	06-12-87	B		
ST87-2918	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co.	06-12-87	B		
ST87-2919	Western Gas Supply Co	Northwest Pipeline Corp	06-12-87	C		
ST87-2920	El Paso Natural Gas Co	Libra Energies, Inc	06-15-87	B		
ST87-2921	El Paso Natural Gas Co	Southern Union Gas Co	06-15-87	B		
ST87-2922	El Paso Natural Gas Co	Southern California Gas Co	06-15-87	B		
ST87-2923	Houston Pipe Line Co	Enron Industrial Natural Gas Co	06-15-87	C		
ST87-2924	Houston Pipe Line Co	Philadelphia Electric Co	06-15-87	C		
ST87-2925	Houston Pipe Line Co	Brooklyn Union Gas Co	06-15-87	C		
ST87-2926	Houston Pipe Line Co	Public Service Electric and Gas Co.	06-15-87	C		
ST87-2927	Houston Pipe Line Co	Pacific Gas and Electric Co	06-15-87	C		
ST87-2928	Houston Pipe Line Co	Transwestern Pipeline Co	06-15-87	C		
ST87-2929	Oasis Pipe Line Co	Transwestern Pipeline Co	06-15-87	C		
ST87-2930	Oasis Pipe Line Co	Pacific Gas and Electric Co	06-15-87	C		
ST87-2931	Lear Gas Transmission Co	Williams Natural Gas Co	06-15-87	C	11-12-87	28.80
ST87-2932	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	06-15-87	C	11-12-87	28.80
ST87-2933	Lear Gas Transmission Co	Natural Gas Pipeline Co. of America	06-15-87	C	11-12-87	29.00
ST87-2934	Lear Gas Transmission Co	Natural Gas Pipeline Co. of America	06-15-87	C	11-12-87	29.00
ST87-2935	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	06-15-87	C	11-12-87	29.00
ST87-2936	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	06-15-87	C	11-12-87	28.80
ST87-2937	Lear Gas Transmission Co	Williams Natural Gas Co	06-15-87	C	11-12-87	28.80
ST87-2938	Tennessee Gas Pipeline Co	Cincinnati Gas & Elect. Co., et al	06-15-87	B		
ST87-2939	Tennessee Gas Pipeline Co	Commonwealth Gas Co	06-15-87	B		
ST87-2940	El Paso Natural Gas Co	V.H.C. Pipeline Co	06-16-87	B		
ST87-2941	Natural Gas Pipeline Co. of America	Endevco Pipeline Co	06-16-87	B		
ST87-2942	Northern Natural Gas Co	Houston Pipe Line Co	06-16-87	B		
ST87-2943	Truckline Gas Co	Humble Gas System, Inc	06-17-87	B		
ST87-2944	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-15-87	B		
ST87-2945	Panhandle Eastern Pipe Line Co	Union Electric Co	06-15-87	B		
ST87-2946	Panhandle Eastern Pipe Line Co	East Ohio Gas Co	06-15-87	B		
ST87-2947	Panhandle Eastern Pipe Line Co	Union Electric Co	06-15-87	B		
ST87-2948	Panhandle Eastern Pipe Line Co	Ohio Gas Co	06-15-87	B		
ST87-2949	Panhandle Eastern Pipe Line Co	Citizens Gas Fuel Co	06-15-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-2950	Panhandle Eastern Pipe Line Co	Union Electric Co	06-15-87	B		
ST87-2951	Panhandle Eastern Pipe Line Co	Lear Gas Transmission Co	06-15-87	B		
ST87-2952	Blue Dolphin Pipe Line Co	Walter Oil & Gas Corp	06-15-87	G-EU		
ST87-2953	Truckline Gas Co	Coastal Gas Gathering Co	06-16-87	B		
ST87-2954	Truckline Gas Co	Northern Indiana Public Service Co.	06-16-87	B		
ST87-2955	Panhandle Eastern Pipe Line Co	Consumers Power Co	06-16-87	B		
ST87-2956	Northern Natural Gas Co	Metropolitan Utils. Dist. of Omaha	06-17-87	B		
ST87-2957	Williams Natural Gas Co	Union Gas System, Inc	06-17-87	B		
ST87-2958	Williams Natural Gas Co	KPL Gas Service Co	06-17-87	B		
ST87-2959	Gas Gathering Corp	Hadson Gulf, Inc	06-18-87	G-EU		
ST87-2960	Tennessee Gas Pipeline Co	Bridgeline Gas Distribution Co	06-18-87	B		
ST87-2961	Tennessee Gas Pipeline Co	Coronado Transmission Co	06-18-87	B		
ST87-2962	Williams Natural Gas Co	Yankee Pipeline Co	06-18-87	B		
ST87-2963	El Paso Natural Gas Co	Lear Gas Transmission Co	06-19-87	B		
ST87-2964	El Paso Natural Gas Co	Intratex Gas Co	06-19-87	B		
ST87-2965	Mountain Fuel Resources, Inc	Mountain Fuel Supply co	06-19-87	B		
ST87-2966	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	06-19-87	B		
ST87-2967	Mountain Fuel Resources, Inc	MESA Pipeline Co	06-19-87	B		
ST87-2968	Tennessee Gas Pipeline Co	Humphreys County Utility District	06-19-87	B		
ST87-2969	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	06-19-87	B		
ST87-2970	Tennessee Gas Pipeline Co	Delta Natural Gas Co	06-19-87	B		
ST87-2971	United Texas Transmission Co	United Gas Pipe Line Co	06-19-87	C		
ST87-2972	William Natural Gas Co	Kansas Power and Light Co	06-19-87	B		
ST87-2973	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	06-22-87	B		
ST87-2974	Consolidated Gas Transmission Corp	River Gas Co	06-22-87	B		
ST87-2975	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-22-87	B		
ST87-2976	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2977	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2978	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2979	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2980	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2981	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-22-87	B		
ST87-2982	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-22-87	B		
ST87-2983	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2984	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2985	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2986	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2987	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2988	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2989	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2990	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2991	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2992	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2993	Consolidated Gas Transmission Corp	New York State Electric and Gas Co.	06-22-87	B		
ST87-2994	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2995	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-22-87	B		
ST87-2996	Consolidated Gas Transmission Corp	Hope Gas, Inc	06-22-87	B		
ST87-2997	Consolidated Gas Transmission Corp	Hope Gas, Inc	06-22-87	B		
ST87-2998	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-2999	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-22-87	B		
ST87-3000	El Paso Natural Gas Co	Richardson Fuels, Inc	06-22-87	B		
ST87-3001	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	06-22-87	B		
ST87-3002	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp	06-22-87	C		
ST87-3003	Nueces Co	Mountain Fuel Resources, Inc	06-22-87	C	11-19-87	38.81
ST87-3004	William Natural Gas Co	Golden Gas Energies, Inc	06-22-87	B		
ST87-3005	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	06-23-87	B		
ST87-3006	Colorado Interstate Gas co	Northern Illinois Gas Co	06-23-87	B		
ST87-3007	Colorado Interstate Gas Co	MGTC Inc	06-23-87	B		
ST87-3008	Colorado Interstate Gas Co	Llano, Inc	06-23-87	B		
ST87-3009	Colorado Interstate Gas Co	Southern California Gas Co	06-23-87	B		
ST87-3010	ONG Transmission Co	Williams Natural Gas Co	06-23-87	C	11-20-87	10.00
ST87-3011	ONG Transmission Co	Williams Natural Gas Co	06-23-87	C	11-20-87	10.00
ST87-3012	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	06-23-87	B		
ST87-3013	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	06-23-87	B		
ST87-3014	Texas Eastern Transmission Corp	Equitable Gas Co (LDC)	06-23-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-3015	Texas Eastern Transmission Corp	Public Service Electric and Gas Co.	06-23-87	B		
ST87-3016	Transcontinental Gas Pipe Line Corp	Consumers Power Co., et al	06-23-87	B		
ST87-3017	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	06-23-87	B		
ST87-3018	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	06-23-87	B		
ST87-3019	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	06-23-87	B		
ST87-3020	Transcontinental Gas Pipe Line Corp	Public Service Co. of N. Carolina	06-23-87	B		
ST87-3021	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	06-23-87	B		
ST87-3022	Transcontinental Gas Pipe Line Corp	Baltimore Gas and Electric Co	06-23-87	B		
ST87-3023	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	06-23-87	B		
ST87-3024	ANR Pipeline Co	Llano Inc	06-24-87	B		
ST87-3025	ANR Pipeline Co	Northern Indiana Fuel & Light Co	06-24-87	B		
ST87-3026	ANR Pipeline Co	Michigan Gas Utilities	06-24-87	B		
ST87-3027	NAR Pipeline Co	Coastal States Gas Transmission Co.	06-24-87	B		
ST87-3028	ANR Pipeline Co	Llano, Inc	06-24-87	B		
ST87-3029	Northern Natural Gas Co	Wisconsin Gas Co	06-24-87	B		
ST87-3030	Tennessee Gas Pipeline Co	Taft Pipeline Co	06-24-87	B		
ST87-3031	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	06-24-87	B		
ST87-3032	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	06-24-87	B		
ST87-3033	Valero Interstate Transmission Co	Peoples Gas Light & Coke Co., et al.	06-24-87	B		
ST87-3034	ANR Pipeline Co	Philadelphia Electric Co	06-25-87	B		
ST87-3035	ANR Pipeline Co	Wisconsin Public Service Co	06-25-87	B		
ST87-3036	ANR Pipeline Co	Wisconsin Public Service Co	06-25-87	B		
ST87-3037	ANR Pipeline Co	Wisconsin Natural Gas Co	06-25-87	B		
ST87-3038	ANR Pipeline Co	Michigan Consolidated Gas Co	06-25-87	B		
ST87-3039	ANR Pipeline Co	Consumers Power Co	06-25-87	B		
ST87-3040	ANR Pipeline Co	Wisconsin Southern Gas Co., Inc	06-25-87	B		
ST87-3041	ANR Pipeline Co	Michigan Consolidated Gas Co	06-25-87	B		
ST87-3042	ANR Pipeline Co	Wisconsin Public Service Co	06-25-87	B		
ST87-3043	ANR Pipeline Co	Consumers Power Co	06-25-87	B		
ST87-3044	ANR Pipeline Co	Wisconsin Public Service Co	06-25-87	B		
ST87-3045	ANR Pipeline Co	Wisconsin Public Service Co	06-25-87	B		
ST87-3046	ANR Pipeline Co	Wisconsin Power and Light Co	06-25-87	B		
ST87-3047	ANR Pipeline Co	Lamoni Municipal Utilities	06-25-87	B		
ST87-3048	ANR Pipeline Co	Wisconsin Natural Gas Co	06-25-87	B		
ST87-3049	Arkla Energy Resources	Arkansas Louisiana Gas Co	06-25-87	B		
ST87-3050	El Paso Natural Gas Co	Southern California Gas Co	06-25-87	B		
ST87-3051	ONG Transmission Co	Northern Natural Gas Co	06-25-87	C	11-22-87	10.00
ST87-3052	Tennessee Gas Pipeline Co	Cranberry Pipeline Corp	06-25-87	B		
ST87-3053	Tennessee Gas Pipeline Co	Niagara Mohawk Power Corp	06-25-87	B		
ST87-3054	Tennessee Gas Pipeline Co	PPG Pipeline Co	06-25-87	B		
ST87-3055	Tennessee Gas Pipeline Co	Amoco Gas Co	06-25-87	B		
ST87-3056	United Gas Pipe line Co	Pontchartrain Natural Gas System.	06-25-87	B		
ST87-3057	Valero Transmission Co	El Paso Natural Gas Co	06-25-87	C		
ST87-3058	Valero Transmission L.P	Richardson Fuels, Inc	06-25-87	C		
ST87-3059	Williams Natural Gas Co	KPL Gas Service Co	06-25-87	B		
ST87-3060	Williams Natural Gas Co	KPL Gas Service Co	06-25-87	B		
ST87-3061	El Paso Natural Gas Co	Pacific Gas and Electric Co	06-26-87	B		
ST87-3062	El Paso Natural Gas Co	Pacific Gas and Electric Co	06-26-87	B		
ST87-3063	ANR Pipeline Co	Coastal States Gas Transmission Co.	06-26-87	B		
ST87-3064	ANR Pipeline Co	Wisconsin Natural Gas Co	06-26-87	B		
ST87-3065	ANR Pipeline Co	Central Illinois Light Co	06-26-87	B		
ST87-3066	ANR Pipeline Co	Llano, Inc	06-26-87	B		
ST87-3067	ANR Pipeline Co	Michigan Power Co	06-26-87	B		
ST87-3068	ANR Pipeline Co	Wisconsin Public Service Co	06-26-87	B		
ST87-3069	ANR Pipeline Co	Wisconsin Gas Co	06-26-87	B		
ST87-3070	ANR Pipeline Co	Wisconsin Public Service Co	06-26-87	B		
ST87-3071	ANR Pipeline Co	Michigan Consolidated Gas Co	06-26-87	B		
ST87-3072	ANR Pipeline Co	Wisconsin Power and Light Co	06-26-87	B		
ST87-3073	ANR Pipeline Co	Wisconsin Public Service Co	06-26-87	B		
ST87-3074	ANR Pipeline Co	Wisconsin Power and Light Co	06-26-87	B		
ST87-3075	ANR Pipeline Co	Wisconsin Natural Gas Co	06-26-87	B		
ST87-3076	Northern Natural Gas Co	Public Service Electric and Gas Co.	06-26-87	B		
ST87-3077	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	06-26-87	B		
ST87-3078	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	06-26-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-3079	Tennessee Gas Pipeline Co	City of Pontotoc	06-26-87	B		
ST87-3080	Tennessee Gas Pipeline Co	City of Ripley	06-26-87	B		
ST87-3081	Tennessee Gas Pipeline Co	Colonial Gas Company	06-26-87	B		
ST87-3082	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	06-26-87	B		
ST87-2083	Transcontinental Gas Pipe Line Corp	Louisiana Natural Gas Pipeline, Inc.	06-26-87	B		
ST87-3084	Transcontinental Gas Pipe Line Corp	Louisiana Natural Gas Pipeline, Inc.	06-26-87	B		
ST87-3085	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	06-26-87	B		
ST87-3086	Transcontinental Gas Pipe Line Corp	Commission of Public Works, Lauren.	06-26-87	B		
ST87-3087	Transcontinental Gas Pipe Line Corp	Virginia Natural Gas Co	06-26-87	B		
ST87-3088	Transcontinental Gas Pipe Line Corp	Tri-County Natural Gas Co	06-26-87	B		
ST87-3089	Transcontinental Gas Pipe Line Corp	Mississippi Fuel Co	06-26-87	B		
ST87-3090	United Gas Pipe Line Co	Neches Pipeline System	06-26-87	B		
ST87-3091	United Gas Pipe Line Co	Long Island Lighting Co., et al	06-26-87	B		
ST87-3092	United Texas Transmission Co	Texas Eastern Transmission Corp	06-26-87	C		
ST87-3093	United Texas Transmission Co	United Gas Pipe Line Co	06-26-87	C		
ST87-3094	Williams Natural Gas Co	Llano, Inc	06-26-87	B		
ST87-3095	Williams Natural Gas Co	Union Gas System, Inc	06-26-87	B		
ST87-3096	Channel Industries Gas Co	Mid Louisiana Gas Co	06-29-87	C		
ST87-3097	Colorado Interstate Gas Co	Peoples Natural Gas Co	06-29-87	B		
ST87-3098	Colorado Interstate Gas Co	Southern California Gas Co	06-29-87	B		
ST87-3099	Columbia Gulf Transmission Co	New York Power Authority, et al	06-29-87	B		
ST87-3100	Columbia Gulf Transmission Co	Louisiana Natural Gas Pipeline, Inc.	06-29-87	B		
ST87-3101	Gas Gathering Corp	Amoco Production Co	06-29-87	G-EU		
ST87-3102	Kentucky West Virginia Gas Co	Union Gas Co	06-29-87	B		
ST87-3103	Texas Gas Transmission Corp	Northern Intrastate Pipeline Co	06-29-87	B		
ST87-3104	Texas Transmission Corp	Mississippi Valley Gas Co	06-29-87	B		
ST87-3105	Tennessee Gas Pipeline Co	Lake Shore Pipeline Co	06-29-87	B		
ST87-3106	Williams Natural Gas Co	Louisiana Gas Marketing Co	06-29-87	B		
ST87-3107	Williams Natural Gas Co	KPL Gas Service Co	06-29-87	B		
ST87-3108	Arkla Energy Resources	Arkansas Louisiana Gas Co	06-30-87	B		
ST87-3109	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3110	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	06-30-87	B		
ST87-3111	Consolidated Gas Transmission Corp	East Ohio Gas Co	06-30-87	B		
ST87-3112	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3113	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3114	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3115	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3116	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3117	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	06-30-87	B		
ST87-3118	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3119	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3120	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3121	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3122	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3123	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3124	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3125	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3126	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3127	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	06-30-87	B		
ST87-3128	Consolidated Gas Transmission Corp	Hope Gas, Inc	06-30-87	B		
ST87-3129	Consolidated Gas Transmission Corp	New York State Electric and Gas Co.	06-30-87	B		
ST87-3130	Consolidated Gas Transmission Corp	New York State Electric and Gas Co.	06-30-87	B		
ST87-3131	Consolidated Gas Transmission Corp	Niagara Mohawk Power Co	06-30-87	B		
ST87-3132	Louisiana Intrastate Gas Corp	Trunkline Gas Co	06-30-87	C	11-27-87	22.40
ST87-3133	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	06-30-87	C	11-17-87	22.40
ST87-3134	Perry Pipeline Co	Southern California Gas Co	06-30-87	D		
ST87-3135	Tennessee Gas Pipeline Co	City of Lexington, et al	06-30-87	B		
ST87-3136	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	06-30-87	B		
ST87-3137	Transcontinental Gas Pipe Line Corp	Corpus Christi Industrial Pipeline Co.	06-30-87	B		
ST87-3138	Transcontintental Gas Pipe Line Corp	Public Service Electric and Gas Co.	06-30-87	B		
ST87-3139	Transcontinental Gas Pipe Line Corp	Yankee Taft Co	06-30-87	B		
ST87-3140	Transcontinental Gas Pipe Line Corp	Yankee Taft Co	06-30-87	B		

Docket No.	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST87-3141	Trunkline Gas Co	Consumers Power Co	06-30-87	B		
ST87-3142	Trunkline Gas Co	Consumers Power Co	06-30-87	B		
ST87-3143	Trunkline Gas Co	Consumers Power Co	06-30-87	B		
ST87-3144	Trunkline Gas Co	Consumers Power Co	06-30-87	B		
ST87-3145	Trunkline Gas Co	Consumers Power Co	06-30-87	B		
ST87-3146	Trunkline Gas Co	Michigan Power Co	06-30-87	B		
ST87-3147	United Gas Pipe Line Co	Bishop Pipeline Corp	06-30-87	B		
ST87-3148	United Gas Pipe Line Co	Louisiana State Gas Corp	06-30-87	B		
ST87-3149	Valero Transmission, L.P	Transcontinental Gas Pipe Line Corp.	06-30-87	C		
ST87-3150	Valero Transmission, L.P	Valero Interstate Transmission Co	06-30-87	C		
ST87-3151	Valero Transmission, L.P	El Paso Natural Gas Co	06-30-87	C		
ST87-3152	Williams Natural Gas Co	City of Neodesha	06-30-87	B		
ST87-3153	Williams Natural Gas Co	Union Gas System, Inc	06-30-87	B		

[1] Notice of transactions Does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(B)(2) of the Commission's Regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 87-18369 Filed 8-12-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER87-556-000]

Filing; Delmarva Power & Light Co.

August 7, 1987.

Take notice that on July 31, 1987, Delmarva Power & Light Company (Delmarva) tendered for filing proposed changes to certain FERC rate schedules to provide a net increase in charges for firm power service and transmission service to its wholesale customers; and, in addition, by surcharge to certain wholesale customer rate schedules, to recover federal and state income tax expenses resulting from the final determination of the actual taxes on the proceeds of the Company's sale of contract rights related to the termination of its plans to build a nuclear generating facility.

The proposed net changes in rates would increase revenues from jurisdictional sales and transmission service by a total of $3,378,772 annually. In addition, the Company has proposed a rate surcharge totaling $5,029,704 to be recovered over a two year period, reflecting the income taxes paid on the proceeds on the sale of certain contract rights arising out of the termination of a proposed nuclear generating facility.

The Company states that the increases are necessary in order to fully recover the Company's cost of service to its resale customers and to provide funds to permit the Company to conduct its operations and construction program in an efficient and economic manner.

The Company has proposed an effective date for the rate schedule changes of October 1, 1987.

Copies of the filing have been served upon the Company's jurisdictional customers and upon the Public Service Commissions of Delaware and Maryland, and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87-18376 Filed 8-12-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA87-1-24-000]

Proposed Change in Rates; Equitable Gas Co., a Division of Equitable Resources, Inc.

August 7, 1987.

Take notice that Equitable Gas Company (Equitable), a Division of Equitable Resources, Inc., on July 31, 1987, tendered for filing with the Commission Eleventh Revised Sheet No. 6f to its FERC Gas Tariff, First Revised Volume No. 1, to become effective September 1, 1987. Equitable Gas Company states that the change in rates results from the application of the Purchased Gas Cost Rate Adjustment provision in section 6 of Rate Schedule GS-1 of FERC Gas Tariff, First Revised Volume No. 1, approved by the Commission in Docket Nos. CP79-290, RP79-69, and RP79-49.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket Nos. CP79-290, RP79-69, and RP79-49).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 14, 1987. 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. 87-18377 Filed 8-12-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP72-50-000 and CP72-274-000]

Petition To Amend; Georgia-Pacific Corp.

August 7, 1987

Take notice that on July 28, 1987, Georgia-Pacific Corporation (Applicant), P.O. Box 105605, Atlanta, Georgia 30348, filed in Docket Nos. CP72-50-000 and CP72-274-000 a petition to amend the orders issued November 15, 1987, and February 6, 1974, respectively, pursuant to section 7(c) of the Natural Gas Act to delete the end-use restriction imposed on it for the use of gas and to authorize the utilization of its 19.5 miles of pipeline to deliver natural gas for its use at its facilities located at Crossett, Arkansas purchased from other available sources, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant states that by order issued November 15, 1971, it was authorized to construct and operate approximately 19.5 miles of 8-inch pipeline between its company-owned production in Monroe Field, Morehouse Parish, Louisiana and pulp and paper plant located at Crossett, Arkansas. Applicant further states that by order issued February 6, 1974, it was authorized to construction and operate approximately 2.6 miles of pipeline to connect and transport gas purchased from Navarro Gas Production Company. The Commission's order restricted both the sources and volumes of gas the Applicant could transport in its own line and restricted the uses to which the gas could be put.

Applicant requests that the Commission delete the end-use restrictions imposed on it for natural gas transported through its certificated facilities and amend the previously-issued certification to provide it with authority to transport in its own facilities, gas for its own use, purchased from any gas supplier.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 the protest 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 to participate in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18378 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-467-000]

Petition to Amend; Great Lakes Gas Transmission Co.

August 7, 1987.

Take notice that on July 28, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP87-467-000, a petition to amend the orders issued in Docket Nos. CP86-474-001, CP79-462, *et al.*, CP71-222, *et al.*, and CP66-110, *et al.*, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Great Lakes states that it requests authorization to continue to provide firm transportation service to both Texas Eastern Transmission Corporation (Texas Eastern) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) of volumes of natural gas to be purchased by Texas Eastern and Tennessee from ProGas Limited, in the quantity of 75,000 Mcf of gas per day (Mcfd), through the contract year ending November 1, 2000.

Great Lakes states that pursuant to an order dated June 10, 1981 (15 FERC 61,254), which granted it a certificate of public convenience and necessity in Docket No. CP79-462, *et al.*, as amended by orders dated July 18, 1985 (32 FERC 62,191), February 10, 1986 (34 FERC 61,185) and November 28, 1986 (37 FERC 61,195), Great Lakes is currently certificated to transport up to 75,000 Mcfd for each of Texas Eastern and Tennessee. It is further stated that in the July 18, 1985, order, the Commission authorized an extension of the term of transportation services for Texas Eastern and Tennessee through October 31, 1987, so as to conform to the authorization for the import of these volumes from Canada granted to Texas Eastern and Tennessee by the Economic Regulatory Administration (ERA). Subsequently, it is indicated, Tennessee received authorization from the ERA, in Docket No. 86-06-NG, for the import of the subject gas volumes, until November 1, 2000. It is further indicated that the volumes that would be transported for Texas Eastern would be imported by Texas Eastern pursuant to import authorization for an identical term being sought by Texas Eastern from the ERA in Docket No. 87-37-NG. It is stated that Tennessee and Texas Eastern have executed amendatory agreements, each dated July 1, 1987, with Great Lakes which extend the term of the service until November 1, 2000.

Great Lakes states that no additional facilities would be required to provide the subject service since TransCanada Pipe Lines Limited (TransCanada) has entered into an amending agreement with Great Lakes, dated July 1, 1987, in which it agrees to continue to back-off equivalent volumes under its gas transportation contract, as amended, with Great Lakes, dated September 12, 1967, as amended. Great Lakes further states that these charges would be reflected in Rate Schedule T-4 to Great Lake FERC Gas Tariff, Original Volume No. 2 (T-4 Tariff) under which Great Lakes provides this transportation service to TransCanada. it is stated that Tennessee and Texas Eastern would continue to be charged by Great Lakes, for this service, a rate equal to that applicable for deliveries in Great Lakes's Eastern Zone under the T-4 Tariff.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 28, 1987 file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18379 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-455-000]

Application; K N Energy, Inc.

August 7, 1987.

Take notice that on July 22, 1987, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP87-455-000 an application pursuant to section 7(b) of the Natural

Gas Act for authorization permitting and approving abandonment of its transportation service provided to Mid Louisiana Gas Company (Mid-La) pursuant to an agreement entered into between the parties, which is on file with the Commission as Rate Schedule T–2 of Applicant's FERC Gas Tariff, Second Revised Volume No. 2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states the Mid-La requested termination of the transportation agreement dated January 12, 1977, by letter dated March 31, 1987.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18380 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–3–25–000]

Rate Change Filing; Mississippi River Transmission Corp.

August 7, 1987

Take notice that on July 31, 1987, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Twenty-First Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Mississippi requests and effective date of September 1, 1987.

Twenty-First Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes, and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. The filing also contains base rate reductions under Rate Schedules CD–1, SGS–1 and PI–1 to reflect the July 1, 1987 change in the Federal corporate income tax rate from 46% to 34%. Mississippi states that the filing reflects a decrease under Rate Schedule CD–1 of $.144 per Mcf in Demand Charge D–1, a decrease of $.031 per Mcf in the Demand Charge D–2 and commodity rate increase of $.2125 per Mcf. The single part rate under Rate Schedule SGS–1 reflects an overall increase of $.1675 per Mcf. The overall cost impact of such rate changes when applied to annual jurisdictional billing determinants is a $21.0 million increase. Mississippi states that the primary reason for the increase is a change in the commodity Surcharge Adjustment from a credit $.5093 to a credit $.0886.

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 August 14, 1987. 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. 87–18381 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER80–574–001]

Filing; Nantahala Power and Light Co.

August 7, 1987,

Take notice that on July 28, 1987, Natahala Power and Light Company (Nantahala) tendered for filing in compliance with the June 29 order its 1986 "PL" (COSAC) rate tariff. Nantahala states that this revised filing excludes wartime depreciation. In addition, his filing incorporates the change in the federal income tax rate as agreed upon by Nantahala and each of its wholesale customers in a settlement agreement.

Copies of this filing have been served upon each of the parties affected by this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87–18382 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP87–456–000]

Application; National Fuel Gas Supply Corp.

August 7, 1987.

Take notice that on July 22, 1987, National Fuel Gas Supply Corporation (National), Ten CP87–456–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity with pregranted abandonment authorizing the transportation of up to 50,000 Mcf of natural gas per day on behalf of the

Connecticut Light and Power Company (CL&P) for a term of two years. National would transport the gas for CL&P on an interruptible basis from the interconnection of National's facilities with Tennessee Gas Pipeline Company (Tennessee) at East Aurora and Clarence, New York to its interconnections with the facilities of Tennessee and Penn-York Energy Corporation at Ellisburg, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National states that CL&P has entered into five gas purchase agreements with the following companies: Poco Petroleum, Inc.; Northridge Petroleum Marketing U.S., Inc.; Atcor Resources, Inc.; Western Gas Marketing USA Ltd. and Canadian Hunter. Each of the above mentioned agreements provides for the sale of up to 50,000 Mcf of natural gas per day from Canadian gas sources.

National states that it knows of no other application that must be filed with any other Federal, State or other regulatory body to effect this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiciton 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 notices before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 78383 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-264-005]

Petition To Amend; Natural Gas Pipeline Co. of America

August 7, 1987.

Take notice that on July 23, 1987, Natural Gas Pipeline Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed a petition to amend the order issued September 18, 1986, in Docket No. CP86-264-000, as further amended on January 27, 1987, pursuant to section 7(c) of the Natural Gas Act so as to authorize the extension of its transportation term for Caterpillar Inc. (Caterpillar) until September 18, 1988, and to add five additional receipt points in Oklahoma and Texas.

In Docket No. CP86-264-000, 36 FERC ¶61,328, NGPL was granted authorization to transport up to a maximum of 15,000 MMBtu of natural gas per day for Caterpillar until the earlier of September 17, 1988, or the date NGPL accepts a blanket certificate under Order No. 436 in Docket No. CP86-582-000.

Pursuant to the January 6, 1986, transportation agreement between NGPL and Caterpillar as amended April 8, 1987, NGPL requests authorization to extend its transportation service for Caterpillar until September 18, 1988, and month to month thereafter unless cancelled by either party.

Pursuant to a second April 8, 1987, amendment to the January 6, 1986, transportation agreement, NGPL requests authorization to add five additional receipt points in Beckham, Custer, and Washita Counties, Oklahoma, and Wise County, Texas.

It is stated that Caterpillar would make natural gas volumes available to NGPL at the following receipt points: (1) The existing interconnection between NGPL and El Paso Natural Gas Company (El Paso) located in Washita County, Oklahoma (El Paso/Washita #1); (2) the existing interconnection between NGPL and Producer's Gas Company, Beckham County, Oklahoma (Producer's/Beckham); (3) the existing interconnection between NGPL and Delhi Gas Pipeline Company (Delhi) located in Custer County, Oklahoma (Delhi-Custer); (4) the tailgate of the Liquid Energy Corporation's Bridgeport Plant, Wise County, Texas (Bridgeport Plant/Wise); and (5) the outlet of Cities Service Gas Company's Chico Gas Plant, Wise County, Texas (Chico/Wise).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18384 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-452-000]

Request Under Blanket Authorization; Northern Natural Gas Co.; Division of Enron Corp.

August 7, 1987.

Take notice that on July 20, 1987, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87-452-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct one delivery point and appurtenant facilities under the authorization issued to Northern in Docket No. CP82-401-000 to accommodate natural gas deliveries to Pines Inc., all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to construct one small-volume delivery point to accommodate natural gas deliveries to Pines Inc. to be served by Wisconsin Gas Company (Wisconsin Gas). Northern states that the total estimated cost to construct the proposed facilities is $4,300. Northern states further that

Wisconsin Gas is required to contribute $571 in aid of construction. Northern states that estimated peak day and annual volumes to be delivered to Wisconsin Gas at this delivery point in Jackson County, Wisconsin are 117 Mcf and 10,000 Mcf, respectively. Also, Northern indicates that the volumes to be delivered at this proposed delivery point will be within Wisconsin Gas' currently authorized firm entitlement authorized by Commission order issued on April 20, 1985 in Docket No. CP85–277–000, it is stated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18385 Filed 8–12–87; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. CP87–460–000]

Request Under Blanket Authorization; Northern Natural Gas Co., Division of Enron Corp.

August 7, 1987.

Take notice that on July 24, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87–460–000 a request pursuant to § 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a delivery point and appurtenant facilities for service to Wisconsin Power and Light Company (WPLC) and to redistribute WPLC's firm entitlement, under the certificate issued in Docket No. CP82–402–000 pursuant to section 7 of the Natual Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to construct and operate a delivery point and appurtenant facilities to permit the delivery of up to 569 Mcf of natural gas on a peak day (by the fifth year of operation) and 56,530 Mcf annually (by the fifth year of operation) to WPLC for residential and commercial service to the community of Plain, Wisconsin. In order to accommodate the deliveries, Northern proposes to redistribute WPLC's currently authorized daily firm entitlement, pursuant to existing rate schedules as follows:

Community	Existing authority (Mcf)			Proposed authority (Mcf)		
	CD–1	SS–1	PS–1	CD–1	SS–1	PS–1
Plain	0	0	0	226	25	25
Arlington	320	115	72	170	90	47
Platteville	1,930	175	600	1,854	175	600
Total	2,250	290	672	2,250	290	672

It is stated that the deliveries for the new delivery point would be within WPLC's daily firm entitlement for Northern and would have no impact on Northern's peak day or annual deliveries. It is asserted that Northern would file a revised service agreement to reflect the changes in deliveries to WPLC.

It is explained that the estimated construction cost would be $45,000 and that WPLC would be required to contribute $13,574 in aid of contruction.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, 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 pursant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18386 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–M

[Docket No. CP87–466–000]

Request Under Blanket Authorization; Northern Natural Gas Co., a Division of Enron Corp.

August 7, 1987.

Take notice that on July 28, 1987, Northern Natural Gas Company, a Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87–466–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to modify one delivery point and appurtenant facilities to accommodate natural gas deliveries to Northern States Power (NSP) under Northern's blanket certificate issued in Docket No. CP82–401–000 on September 1, 1982, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to modify White Bear Lake No. 1, a town border station located in Washington County, Minnesota in order to serve the increased requirements of additional residential, commercial, and industrial customers of NSP served by the town border station. Northern states that such modification will consist of the installation of an additional Rockwell T60 meter which will be designed to serve volumes of up to 914.7 Mcf per hour. Northern states that the meter capacity of the existing facilities is 609.8 Mcf per hour. Northern states that the costs of the proposed modification are estimated at $19,400.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18387 Filed 8–12–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP78–123–025]

Petition To Amend; Northwest Alaskan Pipeline Co.

August 7, 1987.

Take notice that on July 17, 1987, Northwest Alaskan Pipeline Company (Northwest Alaskan), 295 Chipeta Way, Salt Lake City, Utah 84108–0900, filed in

Docket No. CP78–123–025, an amendment to the certificate of public convenience and necessity issued by the Commission in Docket No. CP78–123–000 pursuant to section 7 of the Natural Gas Act and section 9 of the Alaska Natural Gas Transportation Act of 1976, to sell for resale natural gas imported from Canada, in order to: (1) Extend the authorization of the sale for resale to Pacific Interstate Transmission Company (PIT) of an average daily volume of 240,000 Mcf on a firm basis from November 1, 1996 through October 31, 2012, and (2) authorize during the period from November 1, 1988 through October 31, 2012, the sale for resale to PIT in accordance with the purchase agreement of such additional volumes of up to 60,000 Mcf daily on a best efforts basis as are authorized from time to time by the National Energy Board of Canada for exportation by Pan-Alberta and are sold to Northwest Alaskan in accordance with the sale agreement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18388 Filed 8–12–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87–53–000]

Filing; Orange & Rockland Utilities, Inc., Rockland Electric Co. and Pike County Light & Power Co.

August 7, 1987.

Take notice that on July 31, 1987, Orange & Rockland Utilities, Inc., Rockland Electric Company and Pike County Light & Power Co. tendered for filing pursuant to Rule 207(a) (2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, a petition to the Federal Energy Regulatory Commission for an expedited declaratory order and for emergency and permanent relief necessary to avoid severe financial harm with which Petitioners and their customers are presently threatened.

Orange & Rockland Utilities, Inc., et al. states that there is an immediate and serious threat to the financial well-being of the System's companies and their customers, created by New York's attempt to force purchases of electricity from qualifying facilities at prices substantially in excess of System avoided costs.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87–18389 Filed 8–12–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87–3–28–000]

Proposed Change in Tariff; Panhandle Eastern Pipe Line Co.

August 7, 1987.

Take notice that on July 31, 1987 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fifty-Ninth Revised Sheet No. 3–A
Thirty-Sixth Revised Sheet No. 3–B
Seventeenth Revised Sheet No. 3–C.1
Seventeenth Revised Sheet No. 3–C.2
Seventeenth Revised Sheet No. 3–C.3

The proposed effective date of these revised tariff sheets is September 1, 1987.

Panhandle states that these revised tariff sheets reflect a commodity rate decrease of (1.58 cents) per Dt. This decrease includes:

(1) An 8.88 cents per Dt increase in the projected purchased gas cost component;

(2) A (10.43 cents) per Dt decrease in the surcharge to recover the Current Deferred Account Balance at June 30, 1987 and related carrying charges; and

(3) A (0.03 cents) per Dt decrease pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism).

Panhandle further states that these revised tariff sheets reflect the following changes to Panhandle's D1 and D2 demand rates:

(1) A decrease of ($0.10) and D1 and a decrease of (0.42 cents) for D2, pursuant to section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) No change for D1 and an increase of 0.31 cents for D2, to reflect changes in the section 18.4 pipeline supplier demand costs.

Panhandle states that the revised tariff sheets also reflect Projected Incremental Pricing Surcharges in accordance with section 21 of the General Terms and Conditions of Panhandle's Tariff. Additionally, Panhandle states that it has included in this filing costs under Order No. 94–A, for gas to be purchased by Panhandle during the six-month period commencing September 1, 1987.

To the extend required, if any, Panhandle requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets, to become effective September 1, 1987.

Copies of this letter and enclosures are being served on all jurisdictional customers 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 and 385.214). All such motions or protests should be filed on or before August 14, 1987. 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. 87-18390 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-799-000]

Application for Permanent Abandonment; Preussag Energy Venture et al.

August 7, 1987.

Take notice that on July 29, 1987, Preussag Energy Venture (Preussag or Applicant) on behalf of itself and its two co-working interest owners, NICOR Exploration Company (NICOR) and Apache Corporation and A.P.C. Operating Partnership, L.P. (Apache) filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon permanently service under their existing contracts with Natural Gas Pipeline Company of America (Natural) that cover gas produced from Main Pass Blocks 148 and 151, Offshore Louisiana. Preussag and NICOR operate under small producer certificate authorization in Docket Nos. CS85-5-000 and CS78-574, respectively. Apache succeeded to Texoma Production Company's July 30, 1982, contract with Natural, which is on file as Texoma FERC Gas Rate Schedule No. 9. Applicant states that it is subject to substantially reduced takes without payment.[1] Applicant states that the contracts were terminated pursuant to settlement of disputes between the parties including take-or-pay and minimum take. Applicant proposes to make sales of abandoned gas on the spot market under the blanket limited-term certificate and pregranted abandonment authorizations granted NICOR and its co-interest owners by order dated December 22, 1986, in Docket No. CI86-708-000 and granted Natural's producer suppliers by order dated Janaury 21, 1987, in Docket No. CI86-637-000, *et al.* The estimated deliverability for Block 151 is 39,876 Mcf/d. No deliverability estimate is available for Block 148 because gas produced is casinghead gas. The wells produce NGPA section 102(d) gas.

Since Applicants indicate they are experiencing substantially reduced takes without payment and have requested that the application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18391 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-680-000]

Application for Permanent Abandonment; Shell Oil Co., Shell Offshore Inc. and Shell Western E&P Inc.

August 6, 1987.

Take notice that on June 5, 1987, as supplemented on July 17, 1987, Shell Oil Company, Shell Offshore Inc. and Shell Western E&P Inc. (Applicants) filed an application in Docket No. CI87-680-000 requesting permanent abandonment of sales of gas to United Gas Pipe Line Company (United) under sixteen different contracts.

In support of their application, Applicants state that on January 30, 1987, Applicants and United reached a settlement agreement dated January 30, 1987, with respect to both past and future take-or-pay obligations of United to Applicants' companies. Such agreement included a payment by United for amending the take-or-pay provisions of the contracts as contemplated by 18 CFR 2.76. The settlement of past and future take-or-pay obligations of United to Applicants' companies is contingent upon the granting of total and permanent abandonment of all sales to United by Applicants' companies, together with United's agreement to transport gas so released and abandoned. Applicants plan to sell the gas in interstate commerce and plan to file for the required certificate authority as needed. Applicants request that their application be considered on an expedited basis under procedures established by Order No. 436, Docket No. RM85-1-000, at 18 CFR 2.77.[1] Deliverability is approximately 52,316 Mcf/d. The gas is NGPA section 102 (54.9%), section 104 flowing (0.6%), section 104 replacement or recompletion (1.6%), section 104 1973-1974 biennium (0.5%), section 104 Post-1974 (26.5%), section 106(11.3%) and section 109 (4.6%).

Since Applicants have requested that their application be considered on an expedited basis, all as more fully described in the attached tabulation and in the application which are on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register** file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding hearin must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

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[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

[1] The United States Court of Appeals of the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-680-000 (G-5037) [1].	Shell Oil Company, P.O. Box 2463, Houston, TX 77001.	United Gas Pipe Line Company, Gibson Field, Terrebonne Parish, Louisiana.[2]		
(CG-5046)	do	United Gas Pipe Line Company, West Lake Verret Field, St. Martin Parish, Lousiana.[2]		
(CI68-1146)	Shell Offshore Inc., c/o Shell Oil Company, P.O. Box 2463, Houston, TX 77001.	United Gas Pipe Line Company, South Timbalier Block 26, Offshore Louisiana.[2]		
(CI70-102)	do	(2)		
(CI76-137)	do	(2)		
(CI78-1167)	do	United Gas Pipe Line Company, South Marsh Island Block 149, Offshore Louisiana.[2]		
(CI79-488)	do	United Gas Pipe Line Company, High Island Block 179, *et al.*, Offshore Louisiana.[2]		
(CI80-138)	do	United Gas Pipe Line Company, High Island Block A-490, Offshore Texas.[2]		
(G-5043)	Shell Western E&P Inc., c/o Shell Oil Company, P.O. Box 2463, Houston, TX 77001.	United Gas Pipe Line Company, Turtle Bayou Field, Terrebonne Parish, Louisiana.[2]		
(G-5045)	do	United Gas Pipe Line Company, Weeks Island Field, Iberia and St. Mary Parishes, Louisiana.[2]		
(G-19215)	do	United Gas Pipe Line Company, Belle River Field, St. Martin Parish, Louisiana.[2]		
(CI72-177)	Shell Western E&P Inc., c/o Shell Oil Company, P.O. Box 2463, Houston, TX 77001.	United Gas Pipe Line Company, Van Field, Van Zandt County, Texas.[2]		
(CI72-438)	do	United Gas Pipe Line Company, East Texas Field, Gregg County, Texas.[2]		
(CI72-696)	do	(2)		
(CI84-152-000)	do	United Gas Pipe Line Company, Gibson Field, Terrebonne Parish, Louisiana.[2]		
(CI84-153-000)	do	United Gas Pipe Line Company, West Lake Verret Field, St. Martin Parish, Louisiana.[2]		

[1] Additional material received July 17, 1987.

[2] Applicants request permanent abandonment authorization of their sales of gas to United. Applicants state that this application is pursuant to a settlement agreement dated January 30, 1987, reached between the parties with respect to past and future take-or-pay obligations of United to Applicants, and such agreement included a payment by United for amending the take-or-pay provisions of the contracts. Applicants plan to sell this gas in interstate commerce and plan to file for the required certification as needed.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-18392 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP87-13-004 and CP87-88-001]

Proposed Changes in FERC Gas Tariff; South Georgia Natural Gas Co.

August 6, 1987.

Take notice that on July 31, 1987, South Georgia Natural Gas Company (South Georgia) tendered for filing the following original and revised tariff sheets designated as Rate Schedules X-6 through X-13:

Original Sheet Nos. 253-464
First Revised Sheet No. 262
First Revised Sheet No. 288
First Revised Sheet No. 315
First Revised Sheet No. 341
First Revised Sheet No. 367

The subject rate schedules consist of the Transportation Agreements between South Georgia and the various shippers identified below which were recently certificated by the Commission.

Rate schedule	Shipper	Date of agreement	Date of certificate
X-6	Proctor & Gamble Paper Products Co	10/15/86	02/20/87, CP87-99.
X-7	City of Moultrie, Georgia	10/22/86	02/20/87, CP87-100.
X-8	City of Thomasville, Georgia	11/10/86	02/20/87, CP87-101.
X-9	Great Southern Paper Co	01/20/87	03/09/87, CP87-208.
X-10	Americas Utility Commission	01/05/87	03/09/87, CP87-209.

Rate schedule	Shipper	Date of agreement	Date of certificate
X-11	Oil-Dri Corp	03/04/87	06/26/87, CP87-282.
X-12	City of Meigs, Georgia	10/08/86	06/26/87, CP87-282.
X-13	City of Tifton, Georgia	03/02/87	06/26/87, CP87-269.

South Georgia requests that the original sheets be accepted effective as of the date of issuance of the certificate authorizing the particular service. In addition, South Georgia requests that the revised sheets, reflecting the transportation rate changes proposed in Docket No. RP87-13-000, be accepted effective May 1, 1987, the effective date of South Georgia's rate filing in that proceeding.

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 the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). All such motions or protests should be filed on our before August 13, 1987. 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. 87-18393 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-466-000]

Application; Southern California Gas Co.

August 7, 1987.

Take notice that on July 14, 1987, as supplemented July 28, 1987, Southern California Gas Company (SoCalGas), 810 S. Flower Street, Los Angeles, California 90017, filed in Docket No. CP87-446-000 an application pursuant to § 284.224 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 28, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for SoCal Gas to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18394 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-56-000]

Petition for Adjustment; Wenert Trich

August 7, 1987.

On July 13, 1987, Wenert Trich filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399-A,[1] Section 502(c) of the Natural Gas Policy Act of 1978,[2] and Subpart K of the Commission's Rules of Practice and Procedure.[3] Petitioner seeks waiver of that portion of its Btu refund obligation attributable to royalties paid by the petitioner to various individual royalty owners. Petitioner states that he has requested repayment of these overpayments, but none have been received. Petitioner further states that the wells in question here are uneconomical or are no longer producting. Petitioner states that under these circumstances the refund amounts cannot be recovered by witholding future payments. Petitioner therefore seeks a waiver of its Btu refund obligations.

The procedures applicable to the conduct of the adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provision of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18395 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-560-000]

Filing; Union Electric Co.

August 7, 1987.

Take notice that on August 3, 1987, Union Electric Company (UE) tendered for filing Supplement No. 9, dated May 28, 1987, to the Twin Cities-Iowa-St. Louis 345 kV Interconnection Coordinating Agreement dated January 7, 1965 between Interstate Power Company, Iowa Electric Light & Power, Iowa-Illinois Gas and Electric Company, Iowa Public Service Company, Iowa Southern Utilities Company, Northern States Power and Union Electric Company.

The Supplement provides for the inclusion in the Coordinating Agreement of Term Energy and the rate therefore.

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[1] Refunds Resulting From Btu Measurement Adjustments, 49 FR 46353 (Nov. 26, 1984); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,612.

[2] 15 U.S.C. 3412(c) (1982).

[3] 18 CFR 395.1101-395.1117 (1986).

UE requests that the filing be permitted to become effective May 1, 1987.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a 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. 87-18396 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-469-000]

Request Under Blanket Authorization; United Gas Pipe Line Co.

August 7, 1987.

Take notice that on July 31, 1987, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-469-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to construct and operate a 2-inch sales tap to replace an existing 1-inch sales tap located on Applicant's 18-inch Sterlington-Jackson mainline near Jackson, Hinds County, Mississippi under the certificate issued in Docket No. CP82-430-000 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 construct and operate the new sales tap to supply Mississippi Valley Gas Company (M.V.G. Co.), a local distribution company, with an estimated 180 Mcf of natural gas per day for resale to residential and commercial customers, including two schools, near Jackson, Mississippi. Applicant states that it is authorized, in Docket No. G-232, to provide all of M.V.G. Co.'s natural gas requirements for resale and distribution. Applicant indicates that the sales are made pursuant to an effective service agreement dated February 7, 1980, under Applicant's DG-N Rate Schedule. Applicant avers that the total Maximum Daily Quantity for the M.V.G. Co. Jackson Billing Area is 118,542 Mcf and that the proposed sale would be within the limitation set for this particular billing location.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time 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. 87-18397 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-470-000]

Request Under Blanket Authorization; United Gas Pipe Line Co.

August 7, 1987

Take notice that on July 31, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-470-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to replace an existing 1-inch sales tap by constructing and operating a 2-inch sales tap under the certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

It is stated that United proposes to construct and operate a 2-inch tap on its Offshore-Kosciusko Main Line near Flowood, in Rankin County, Mississippi, to supply Mississippi Valley Gas Company (M.V.G.) with an estimated average of 326 Mcf per day of natural gas for resale to residential and commercial customers. United States that the proposed 2-inch tap would replace an existing 1-inch tap and that M.V.G would reimburse United for all costs resulting from the tap installation.

United States that the new sales tap for M.V.G. would not result in an increase in M.V.G.'s aggregate base requirements or contractual MDQ. United explains that it is authorized to provide all of M.V.G.'s natural gas requirements for resale and distribution through M.V.G.'s distribution system serving the Jackson, Mississippi, Service Area and its adjoining environs in accordance with a February 7, 1980, service agreement and United's rate schedule DG-N. United further states that the total MDQ for the M.V.Q. Jackson billing area is 118,542 Mcf and that the proposed sale is within the limitation set for this particular billing location. United advises that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the natural Gas Act 18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18398 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-433-000]

Complaint and Motion for Order To Cease Construction and Operation and Order To Show Cause; Williams Natural Gas Co., and Quivira Gas Co.

August 4, 1987.

Take notice that on July 6, 1987, Oklahoma Natural Gas Company, a Division of ONEOK, Inc. (ONG), 100 West Fifth Street, Tulsa, Oklahoma 74103, filed in Docket No. CP87-433-000 a complaint, motion to cease construction and operation and an order to show cause pursuant to § 385.206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206) to prohibit Williams Natural Gas Company (Williams) and Quivira Gas Company (Quivira) from constructing facilities and transporting natural gas to Koch Hydrocarbons, Inc. (Koch), all as more fully set forth in the complaint and motion which is on file with the

Commission and open to public inspection.

ONG, a local distribution company (LDC), states that Koch is an industrial user of gas whose requirements at its Medford Plant historically have been delivered by ONG. ONG further states that it was notified by letter dated July 2, 1987, that Williams and Quivira commenced transportation of natural gas to Koch's plant on or about July 2, 1987. ONG states that Quivira has constructed six miles of pipeline from a tap on Williams' pipeline to Koch's plant solely for the purpose of supplying the Koch plant, and in order to by-pass ONG's system.

ONG believes that Williams is providing this transportation "on behalf of" Quivira under section 311(a)(1) of the Natural Gas Policy Act of 1978 (section 311) and that Quivira claims to be an intrastate pipeline. ONG submits that such transportation cannot be performed on a self-implementing basis under section 311 and requires certification under section 7 of the Natural Gas.

ONG states that the construction of facilities by Williams and/or Quivira, to the extent already undertaken is in violation of the NGA. ONG requests the Commission issue an order to show cause why these parties should not cease and desist from any further construction or operation of facilities without first obtaining certificates, and why they should not be held to have violated the NGA.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before September 3, 1987, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18399 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-462-000]

Request Under Blanket Authorization; Williston Basin Interstate Pipeline Co.

August 7, 1987.

Take notice that on July 27, 1987, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP87-462-000 a request pursuant to § 157.205 and § 157.216(b) of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission to abandon seven sales taps and appurtenant facilities under its blanket certificate authorization issued in Docket Nos. CP82-487-000, *et al.*, all as more fully set forth in its request which is on file with the Commission and open to public inspection.

Williston Basin proposes to abandon seven taps in the following locations; Three in Park County, Wyoming; one in Big Horn County, Wyoming; one in Yellowstone County, Montana; one in Carbon County, Montana, and one in Pennington County, South Dakota. Such sales taps and appurtenant facilities are located on applicant's natural gas transmission system. It is stated that the customer, Montana-Dakota Utilities Co. (Montana-Dakota), a division of MDU Resources Group, Inc., no longer requires service through these taps because its retail customers would be served through extensions of Montana-Dakota's own distribution facilities. It is further stated that Montana-Dakota has consented to such abandonment. In addition, Williston Basin states that since such sales taps would be abandoned on its existing transmission right-of-way, there would be no significant adverse impact on the environment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to the 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. 87-18400 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-463-000]

Request Under Blanket Authorization; Williston Basin Interstate Pipeline Co.

August 7, 1987.

Take notice that on July 27, 1987 Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP87-463-000 a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act for authorization to abandon 951 feet of transmission lateral pipeline under its blanket certificate authorization issued in Docket Nos. CP82-487-000 *et al.* pursuant to section 7 of the Natural Gas Act, all as more fully set forth in its request which is on file with the Commission and open to public inspection.

Williston Basin proposes to abandon 951 feet of transmission lateral pipeline located on its natural gas transmission system in Crook County, Wyoming. Williston Basin states that the portion of the transmission lateral pipeline to be abandoned is used to provide gas service to an end-use customer of Montana-Dakota Utilities Co. (Montana-Dakota) for use in a bentonite plant. Furthermore Williston Basin states that a sales meter station has been moved 951 feet upstream so as to remove it from within the end-use customer's plant yard. Williston Basin indicates that the 951 feet of transmission lateral pipeline being abandoned by Williston Basin is located between the meter station and the end-use customer's plant yard and will be sold to Montana-Dakota to serve as a distribution line. Thus, Williston Basin states that there will be no impact on the natural gas service provided by Williston Basin to Montana-Dakota.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor the proposed activity shall be deemed to be

authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18401 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-465-000]

Request Under Blanket Authorization; Williston Basin Interstate Pipeline Co.

Take notice that on July 28, 1987, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP87-465-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to add metering and appurtenant facilities under the certificate issued in Docket No. CP82-487-000, *et al.*, 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.

Williston Basin seeks authorization to construct and operate the proposed metering and appurtenant facilities so as to utilize existing natural gas supply receipt facilities to deliver transportation gas to various producers, the principal of which is Koch Hydrocarbon Company, for their use in the field in McKenzie County, North Dakota.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18403 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-53-000]

Petition for Adjustment; Winnie Pipeline Co.

Issued: August 7, 1987.

On June 30, 1987, Winnie Pipeline Company (Winnie) filed with the Federal Energy Regulatory Commission a petition for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). Winnie seeks relief from the Commission's regulations governing transportation rates charged by intrastate pipelines as set forth in 18 CFR 284.123(b)(1)(ii), which allows such charges to equal the effective intrastate transportaion rate if the services are comparable. Comparable service has been interpreted to refer to city-gate service. Winnie requests adjustment from the regulation because it does not render city-gate service. Winnie states that it will file for a section 311(a) determination from the jurisdictional agency upon issuance of the requested adjustment.

The procedures applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-18402 Filed 8-12-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed; Period of June 29 Through July 17, 1987

During the period of June 29 through July 17, 1987, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

August 7, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Tesoro Petroleum Corp., Kenco Refining, San Antonio, Texas, Denver, Colorado; KRO-0540 Reporting Requirements

On July 14, 1987, Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, TX 78217, and Kenco Refining, Inc., 1580 Lincoln Street, Suite 850, Denver, CO 80203, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firms on June 29, 1987. According to the PRO, during the period March 1977 through July 1977 Kenco and Tesoro filed erroneous Refiner's Monthly Reports (Form P-102-M-L). The PRO states that Kenco as a result improperly received small refiner bias (SRB) entitlements valued at $1,285,402 for crude oil refined by Tesoro during the March through May 1977 period. The PRO also states that during the period May 1977 through July 1977, volumes of residual fuel oil which was refined from this crude oil and sold into the East Coast Market by Kenco were not properly reported to the DOE by Kenco and not reported by Tesoro.

According to the PRO the misreporting and practices by Kenco and Tesoro circumvented the Entitlements Program, resulting in $1,412,428 of losses to the Entitlements Programs.

[FR Doc. 87-18481 Filed 8-12-87; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Final Environmental Impact Statement Availability; Proposed Conrad-Shelby 230-KV Transmission Line, Montana

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of availability, final environmental impact statement.

SUMMARY: Notice is hereby given that the Department of Energy (DOE), Western Area Power Administration (Western), has issued for review and comment a final environmental impact statement (EIS) for the proposed Conrad-Shelby 230 kilovolt (kV) Transmission Line Project in Montana, DOE/EIS-0124-F. The final EIS was

prepared pursuant to the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality Regulations, 40 CFR Parts 1500 through 1508; and DOE guidelines for compliance with NEPA, 45 FR 20494, and as amended.

DATE: Written responses to the final EIS are due no later than September 14, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657–6538

Mr. Gary W. Frey, Director of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1527.

SUPPLEMENTARY INFORMATION: On November 5, 1986, Western filed the draft EIS for the Conrad-Shelby 230–kV Transmission Line Project with the Environmental Protection Agency (EPA). EPA published a Notice of Availability in the **Federal Register** on November 14, 1986. The comment period on the draft ended January 5, 1987. The final EIS contains a comprehensive summary of the draft EIS; copies of comments received on the draft EIS and Western's responses; a summary of cultural resources consultation; Errata and Changes to the draft EIS; and other information. The draft and final EIS's are intended to be reviewed together.

Western proposes to construct, operate, and maintain approximately 29.8 miles of 230–kV transmission line between Conrad and Shelby, Montana. The project also includes relocation of approximately 4.9 miles of the existing Harve-Shelby 115–kV Transmission Line, construction of a new 230/115–kV substation (Shelby No. 2), and construction of approximately 2.6 miles of new 115–kV transmission line to interconnect the proposed Shelby No. 2 and existing Shelby No. 1 Substations. The project involves a total of approximately 36 miles of new transmission line. The area is presently served by a single transmission loop consisting of 115–kV and 161–kV facilities.

This system is in urgent need of improvements to correct low voltages, overloaded facilities, and loss of service that has been experienced and which will worsen as loads grow in the area. The proposed action would provide improved service to area loads and system reliability, contribute to energy conservation, and provided additional flexibility for future expansion when and if it becames necessary. Alternatives considered include no action, energy conservation, other generation sources, other transmission systems and technologies, and the proposed action with routing and design alternatives. Unavoidable adverse effects of the proposed action would be construction related impacts on land use, visual, and biological resources.

The final EIS was prepared in compliance with all applicable regulations. Copies have been distributed to appropriate Federal, State, and local agencies; Boards of County Commissioners in Pondera and Tenton Counties; public libraries in Conrad and Shelby, Montana; and other interested groups and individuals. Copies are also available for public inspection at Western offices in Fort Peck and Billings, Montana; Golden, Colorado; and the DOE Reading Room, Forrestal Building, Washington, DC. Copies of the draft and final EIS's are available to the public upon request.

Interested agencies, organizations, and individuals and encouraged to review the final EIS and comment on its adequacy, completeness, and accuracy. Any comments should be sent to Mr. James Davies, Area Manager, at the address given above. Comments received after the comment period may not be considered in Western's decision making process.

Issued at Golden, Colorado, August 3, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87–18431 Filed 8–12–87; 8:45 am]

BILLING CODE 6450–01–M

Salt Lake City Area Integrated Projects; Rate Order; Utah

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of a rate order—Salt Lake City Area integrated projects.

SUMMARY: Notice is given of Rate Order No. WAPA–33 of the Under Secretary of the Department of Energy (DOE) for placing a power rate into effect on an interim basis beginning on the first day of the October 1987 billing period for power marketed by the Western Area Power Administration (Western) from the Salt Lake City Area Integrated Projects (SLCA/IP). The SLCA/IP is comprised of the Colorado River Storage Project (CRSP), the Rio Grande Project, and the Collbran Project.

The wholesale composite power rate for all project firm capacity and energy is 9.92 mills/kWh. This is a decrease of 27.00 mills/kWh to current Rio Grande Project customers and a decrease of 11.88 mills/kWh to the current Collbran Project customer. The rate to CRSP customers will not change.

Because the power investment in the Collbran and Rio Grande Projects is only 2.4 percent of the total SLCA/IP investment, it has a very small effect on the rate. Also, CRSP experienced very high sales due to above-average water conditions in FY 1986, and the additional revenue made it possible for the SLCA/IP rate to be the same as the current CRSP rate.

The rate order further explains the rate adjustment, discusses the principal factors leading to the decisions on the rate increase, and responds to the comments offered during the rate adjustment process.

EFFECTIVE DATE: The rates will become effective on the first day of the October 1987 billing period.

FOR FURTHER INFORMATION CONTACT:

Ms. Marlene Moody, Deputy Area Manager, Salt Lake City Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493

Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535

Mr. Ron Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated to the Administrator of Western the authority to develop long-term power and transmission rates; to the Under Secretary of the Department of Energy the authority to confirm, approve, and place such rates in effect on an interim basis; and to the Federal Energy Regulatory Commission the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates.

The rate adjustment process on the proposed power rate and the consultation and comment period was initiated on November 5, 1986, with an announcement of the proposed rate published in the **Federal Register** at 51 FR 40250. The public information forum on November 20, 1986, and the public comment forum on December 18, 1986, were announced in the same **Federal Register**. Because bad weather prevented many interested parties from attending the December 18, 1986,

meeting, a **Federal Register** notice, dated February 3, 1987 (52 FR 3312), announced the combined public information/comment forum for February 17, 1987, and extended the consultation and comment period until March 4, 1987.

A SLCA/IP power repayment study (PRS) incorporating the CRSP, Rio Grande Project, Collbran Project, and independent audit adjustments was completed, and the rate of 9.92 mills/kWh was developed.

Comments received have been considered in the preparation of the rate order. However, no changes were made in the composite rate as a result of these comments.

Rate Order No. WAPA–33 confirming and approving a new power rate on an interim basis is hereby issued, and the rate will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued at Washington, DC, August 3, 1987.

Joseph F. Salgado,
Under Secretary.

[Rate Order No. WAPA 33]

Order Confirming, Approving, and Placing a Power Rate in Effect on an Interim Basis

August 3, 1987.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101–7352, *et seq.*, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 372 (1902), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Colorado River Storage Project (CRSP), the Rio Grande Project, and the Collbran Project, were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 30, 1986 (51 FR 19744), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place in effect such rates on an interim basis to the Under Secretary of the Department of Energy; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove those rates to the Federal Energy Regulatory Commission (FERC). This rate order is issued pursuant to the delegations to the Administrator and the Under Secretary and the rate adjustment procedures at 10 CFR Part 903, published in the **Federal Register** at 50 FR 37837 on September 18, 1985.

Background

Project History

This is the initial rate for the Salt Lake City Area Office Integrated Projects (SLCA/IP). The SLCA/IP include the Collbran Project, CRSP, and Rio Grande Project. Since this is the initial rate, there are no historical rates to discuss. The rate history of the three projects can be found in the Proposed Rate Adjustment brochures dated October 1982 for CRSP, October 1985 for the Collbran Project, and May 1986 for Rio Grande Project, and in the power repayment studies (PRS) described below.

Power Repayment Studies

PRSs are used to determine if power revenues will be sufficient to pay, within the prescribed time periods, all costs assigned to the power function. Repayment criteria are based on law and policies, and are established in DOE Order RA 6120.2. According to DOE Order RA 6120.2, power revenues are required to (1) repay power investment costs including interest within 50 years, (2) repay power replacement costs including interest within the service lives of the equipment not to exceed 50 years, (3) repay irrigation investment costs assigned to power within the time allowed for repayment by irrigation water users, and (4) all of the required annual expenses.

Separate PRSs were prepared for each of the projects to establish their individual revenue requirements and are described below.

The Official FY 1985 Collbran PRS showed that a rate of 21.80 mills/kWh was needed to meet the revenue requirements. This rate became effective with the July 1986 billing period.

The FY 1985 Final Revised Rio Grande Project PRS dated February 1987 showed a need for a rate increase to 36.92 mills/kWh. This rate became effective with the April 1987 billing period.

The FY 1985 Revised CRSP PRS dated March 1986 showed that the current rate of 9.92 mills/kWh was adequate to meet repayment obligations. This study differs from the official FY 1985 CRSP PRS which showed that an increase to 10.30 mills/kWh was necessary to meet repayment obligations. However, examination of this study showed that the rate was driven by costs of the Amimas-La Plata Project, which was being reformulated by Reclamation. The costs of various blocks of the Animas-La Plata Project were initially scheduled to be repaid from 2048 to 2053. Since Reclamation planned to move the date of initial construction of these blocks before the next study would be prepared, and because the changes they would make would negate the need for a rate increase, Western moved them to the 2053 to 2060 period, and found the current rate was adequate. Animas-La Plata costs are currently being revised by Reclamation.

The 1985 Salt Lake City Integrated Projects PRS is the revised 1985 CRSP PRS with the total revenue requirements, annual generation, and capacity of the Collbran and Rio Grande Projects incorporated in the appropriate columns. The current and revised PRSs as required by DOE Order RA 6120.2 do not apply because this is a new study.

All of these studies were revised to include adjustments identified by independent auditors through 1985 and actual 1986 data. Projections for 1987 and beyond were not changed. To establish a SLCA/IP PRS, the CRSP PRS was used, the resources from the Collbran and Rio Grande Projects were added to the CRSP resources, and power from the Rio Grande and Collbran Projects will be purchased by CRSP for an amount equal to the revenue needs established by the separate PRSs. Total power investment in the Collbran and Rio Grande Projects is only 2.4 percent of the total SLCA/IP investment. Because of their sizes, they have a very small effect on the rate when integrated with CRSP. The SLCA/IP PRS sets the rate needed to recover the amount purchased plus the repayment obligation of CRSP.

Initial SLCA/IP Rate

Originally a rate of 10.25 mills/kWh was determined to be necessary. Subsequently, Western made some modifications to the PRS computer program for CRSP. The original program did not allow repayment of participating projects until the project investment and the aid to irrigation had been repaid. Modifying the program to allow concurrent repayment of these project investments provided more flexibility in repaying CRSP obligations and resulted in a reduced proposed rate of 10.04 mills/kWh.

The study has been updated to include FY 1986 data. FY 1986 was an above-average water year which provided additional CRSP revenues. Independent audits of the projects

resulted in adjustments that have also been incorporated in this study. Because of these changes, the current CRSP rate, with a demand charge of $25.08/kW-year and an energy charge of 5.0 mills/kWh, is adequate to meet the obligations of the SLCA/IP. This is a composite rate of 9.92 mills/kWh at the system load factor of 58.2 percent.

Power Factor Adjustment

From at least as far back as 1974, Western and Reclamation have included in their rate schedules a provision stating that customers are expected to maintain the power factor of their systems between 95 percent lagging and 95 percent leading. However, no enforcement provisions are included in the current rate schedules. In addition, there are provisions in certain wheeling contracts of Western's that allow the wheeling agents to make power factor corrections on their systems for power factor problems caused by systems of Western's customers and to bill Western for the work.

The original proposal called for 1 percent to be added to a customer's total monthly bill for each percent that its power factor was below 95 percent lagging or 95 percent leading. A second provision provided for the passthrough to the customer of power factor correction expenses imposed on Western by its wheeling agents. In a subsequent proposal, the 1 percent adjustment was left in the rate schedule, and the passthrough provision was moved into the post-1989 contracts. Later, language was added to give the contracting officer more flexibility to deal with specific situations, such as emergencies, that would warrant waiver of the adjustment. The language included in rate schedule SLIP–F1 is the same as it has been in the past and establishes the acceptable power factor range. Language included in the post-1989 power sales contracts allows Western to make corrections to its own or a customer's system to correct power factor conditions and to bill the customer for the work. This should act as an incentive for customers to perform their own work. In addition, a provision allows Western to pass through to the customer any expenses incurred because of power factor correction on a wheeling agent's system that are the result of conditions on a customer's system.

Public Notice and Comments

The "Procedures for Public Participation in Power and Transmission Rate Adjustments," 10 CFR Part 903, for power marketed by Western and other power marketing administrations have been followed in the development of this rate. The following summarizes the steps Western took to assure involvement of interested parties in the rate process:

—Letter dated August 29, 1986, announcing intent to implement an integrated rate and announcing the September 11, 1986, informal customer meeting.
—Informal customer meeting held on September 11, 1986.
—**Federal Register** notice dated November 3, 1986, announcing the November 20, 1986, public information forum; the December 18, 1986, public comment forum; and the beginning of the consultation and comment period.
—Public information forum held on November 20, 1986.
—Letter changing proposed power factor adjustment language date December 5, 1986.
—Public comment forum held on December 18, 1986.
—Customer power factor committee meeting held on January 29, 1987.
—**Federal Register** notice dated February 3, 1987, announcing an additional public information/comment forum to be held on February 17, 1987, and extending the consultation and comment period.
—Public information/comment forum held on February 17, 1987.
—Consultation and comment period ended March 4, 1987.

Certification of Rate

The Administrator has certified that the SLCA/IP rate is the lowest possible rate consistent with sound business principles. The rate has been developed in accordance with administrative policies and applicable laws.

Discussion

The discussion below relates to the issues of early integration, repayment policy, procedural matters, and power factor adjustment that were raised during the consultation and comment period.

Early Integration

The comment was made by a few commentors that the projects should not be integrated until the post-1989 power sales contracts become effective. Western sees the benefits attributable to project integration as (1) an increase in marketable resources, (2) simplified contract development and administration, (3) only one rate adjustment process would be required, and (4) the timely repayment of the Collbran and Rio Grande Projects would be ensured. Integrating the projects before the new contracts become effective on October 1, 1989, would make these benefits available sooner.

Under the post-1989 marketing plan, customers of the Collbran and Rio Grande Projects are to receive power allocations that reduce their financial benefits from integration by 50 percent. As originally proposed, an integrated rate would be established with no adjustment to the Collbran and Rio Grande Projects customers' contract commitments prior to October 1989. Several of the CRSP customers objected, claiming that this would give the small project customers a windfall gain. In responding to these concerns, Western and the customers of the Collbran and Rio Grande Projects are negotiating contract changes that reduce firm contract commitments so that their benefits from integration are reduced by 25 percent. This will make additional short-term excess capacity available to customers during the interim period.

One commentor requested that the energy that is made available as the result of integration be marketed as excess energy to customers of the integrated projects during the interim period before the post-1989 contracts are effective. Western will take into account an increase in capacity available because of integration when it determines what seasonal excess capacity will be offered to customers. No energy will be made available because of integration except surplus energy from the Rio Grande Project that is currently offered to Rio Grande Project customers and that will be offered to all customers.

Repayment Policy

One commentor commented on the policies and procedures Western uses to establish rates. The commentor stated that (1) investment is understated because of the way interest during construction was computed, (2) a 50-year repayment period is excessive and not in accord with sound business practices, (3) the policy of repaying highest interest rate investments first and not using a straight-line amortization method is inappropriate, and (4) not making annual payments on the irrigation investment is also inappropriate. Western rates are set in accordance with applicable laws and DOE order RA 6120.2, which establishes (1) the method of computation of interest during construction, (2) a 50-year repayment period unless otherwise specified in the project legislation, (3) the policy of repaying highest interest rate investments first, and (4) the repayment of irrigation investment (zero

interest) after the interest-bearing investment is repaid.

Procedure

During the consultation and comment period, Western received a request to hold a second public comment forum because weather conditions prevented many interested parties from attending the public comment forum scheduled for December 18, 1986. A second forum was held on February 17, 1987.

Western was asked to form a customer committee to discuss the issues involved in establishing a power factor adjustment clause and to make recommendations to Western about power factor adjustment. A committee of interested customers was formed and met on January 29, 1987. Suggestions of the committee were considered in the development of language for the power factor adjustment.

One commentor suggested that an environmental impact statement concerning the effects of integration should be completed. Western conducted an analysis of the environmental impacts of project integration, which was included in the environmental assessment completed for the post-1989 marketing plan. Since the proposed rate is lower than the rate used in the environmental assessment, a supplemental analysis was done. The results of this analysis, and those of the environmental assessment, demonstrate that the effects of integration are clearly insignificant. A memorandum to Western's files showing these findings was prepared and concludes the environmental process for this rate action.

Power Factor

Many of the comments received concerned the proposed power factor adjustment. Some commentors argued that the 1 percent adjustment was not attributable to any benefit that Western would receive from implementation of the clause. Western's intent in selecting the 1 percent level for the power factor adjustment was not to receive compensation for costs incurred or revenues forgone. The adjustment was intended as an incentive for customers to make improvements to their systems that would correct existing problems. A higher adjustment was not chosen because it was felt that it would be punitive. A lower adjustment would not be an effective incentive because it might be less expensive to pay the adjustment than to make improvements. This adjustment has since been removed from the rate schedule. However, the rate schedule still contains language that maintains the power factor standard. Western believes that provisions included in the post-1989 power sales contracts will be sufficient to encourage customers to comply with this standard.

Commentors suggested that a 90 percent power factor standard, such as the Utah Power and Light Company (UP&L) currently prescribes, be instituted with the standard increasing gradually over a period of years to the 95 percent level proposed by Western. They also suggested that the adjustment be applied only after a customer fails to take corrective measures. Western and Reclamation have included the 95 percent standard in rate schedules since 1974. Western's two main wheeling agents responded to requests to explain their current power factor policies. UP&L supports Western's effort to establish a power factor adjustment. Currently its contracts with Western require power factors of 90 percent or higher at all times. Its desired power factor is 95 percent for peak periods. UP&L wheeling contracts executed in 1986 and 1987 with several of its customers have specified a power factor of 95 percent lag or lead during the monthly peak hour. UP&L stated that all future contracts are expected to contain similar provisions. Public Service Company of New Mexico requires unity power factor with each party supplying its own reactive power. In such a situation, Western has adopted the policy that the power factor standard which is the most restrictive will apply. This means that customers served over the Public Service of New Mexico system will be required to comply with the unity power factor standard, and those served over the UP&L system will be required to comply with the 95 percent level unless or until UP&L or Western adopts a more stringent standard.

Commentors asked Western to withdraw the power factor adjustment from this rate proceeding. As noted earlier, Western's rate schedules have contained language that established a 95 percent leading and lagging power factor for a long time. There has been no enforcement provision included in the schedules. As a result, some customers have ignored the requirement and allowed their systems to operate outside of the established parameters. The proposed establishment of this adjustment was intended to provide the needed mechanism for Western to get compliance with its established standards of operation and improve the efficiency of its transmission system. However, the recent effort made by customers to improve their power factors and the inclusion of provisions in the post-1989 power sales contracts permitting Western to make necessary power factor corrections at the customer's expense should be adequate to achieve compliance with the power factor standard. Consequently, the power factor adjustment has been removed from the rate schedule for the present time.

One group of comments concerned allowing some flexibility in the enforcement of the power factor adjustment. Commentors wanted to be assured that the adjustment would be waived in emergency situations, that procedures would be developed to deal with customers with their own generation, and that the adjustment would not be applied to very small customers. These comments are no longer relevant because the adjustment will not be incorporated in the rate schedule.

It was suggested that Western apply the power factor adjustment only to lagging power factors. The effect of a leading power factor on system losses is the same as for lagging power factor. With the goal of operating the system in an efficient manner, lagging and leading power factors must be kept within an acceptable range. A related suggestion was that the adjustment be applied only to the capacity component of the rate. Figure 3, on page 4 of the Power Factor Discussion Paper included in the supporting documents for this rate, shows that a 10 percent increase (from .85 to .95) in power factor yields a 13 percent increase in system capacity. In addition, there are savings in energy losses as shown in Figure 7 on page 10 of the same report. This figure shows that this same increase in power factor results in a 20 percent reduction in losses. Because power factor correction results in both capacity and energy savings, Western proposed to apply a power factor adjustment to both. The language in the rate schedule specifies an acceptable power factor range of between 95 percent lagging and 95 percent leading and does not include the proposed adjustments on the assumption that adequate incentives to maintain the required power factor will be provided in the power sales contract provisions.

During the public involvement process, Western was asked to explain how it arrived at the 95 percent level for the power factor adjustment. The Power Factor Discussion Paper states:

> Western has used the .95 power factor criteria in the design and planning for new lines since its inception. An acceptable system variance of 5 percent has been the standard in many system designs. System

voltage fluctation is acceptable within the 5 percent margin, transformer taps are also normally standardized on a plus or minus 5 percent range. To obtain optimum release of system transmission capability, technically it is desirable that power factor be improved to 100 percent (unity power factor) because the electrical capacity released is worth several times the cost associated with the addition of power factor correction equipment. However, the system configuration and loading patterns dictate that some value less than unity would be acceptable.

A 95 percent power factor is economically attainable with current correction devices. Therefore, Western has adopted the 95 percent power factor. Western was asked to exclude, from the power factor adjustment, customers served at points of interconnection where power is delivered to several customers. If adopted, the power factor adjustment would not have been applied to customers served through points of interconnection where power flows freely in either direction. The adjustment has been eliminated from the rate schedule as previously noted.

During the public process, Western was also asked to apply the power factor adjustment at points of measurement rather than points of delivery, as had been proposed, and to define the point of measurement. Western concluded that the points at which customer loads are measured, or the points of measurement, would have been the appropriate place to apply the provisions. Under the circumstances, however, this is no longer germane.

One commentor stated that power factor adjustment should be treated in the power sales contracts and not in the rate schedule. Adjustments such as for power factor are normally part of rate schedules along with language that specifies an acceptable range for power factor. However, the adjustment has been eliminated from the rate schedule because Western is willing to try first to correct power factor problems with contract language included in the post-1989 power sales contracts.

Environmental Evaluation

In compliance with the National Environmental Policy Act (NEPA) of 1969 and DOE guidelines published in the **Federal Register** on February 23, 1982, 47 FR 7976, Western follows the process described below in conducting environmental evaluations of proposed rate adjustments.

Section D of the DOE guidelines states that for rate increases for power marketing administrations, the level of documentation under NEPA depends upon the size of the rate increase as it relates to the rate of inflation since the last rate increase. If the rate increse exceeds the rate of inflation since the last rate increase, an environmental assessment is normally required. An environmental assessment considers the impacts of the proposed rate increase and alternatives on the environment.

The SLCA/IP rate is identical to the current CRSP rate. The customer base remains the same, the vast majority of which are CRSP customers. Therefore, Western concluded that it was appropriate to make the environmental determination based on the existing CRSP rate. Under integration, the customers of the Collbran and Rio Grande Projects will receive, from the SLCA/IP resources through 1989, fixed commitments such that their financial benefits from integration are reduced by 25 percent. This will result in decreased Federal costs to these customers. Western analyzed the effect this would have on consumption as a part of its post-1989 Marketing Criteria Environmental Assessment (DOE EA-0265) and found that it did not significantly affect consumption. The analysis was repeated using the proposed rate and the conclusions reached in the post-1989 environmental assessment are still valid. For the post-1989 period, the customers of the Collbran and Rio Grande Projects will receive further reductions in their allocations from the SLCA/IP. Western has conducted an analysis of potential impacts to selected SLCA/IP customers and determined that the SLCA/IP rate would be expected to create adverse environmental effects.

Because there is no rate increase to CRSP customers, and the increase in consumption due to lower prices to customers of the Collbran and Rio Grande Projects would clearly not be significant, an environmental assessment is not necessary.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western has received an exemption from sections 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate adjustment including studies, comments, and other supporting material is available for public review in that Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; in the office of the Director of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of the Assistant Administrator for Washington Liaison, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to the FERC

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve and place in effect Rate Schedule SLIP-F1 on an interim basis, effective on the first day of the October 1987 billing period. The rate shall remain in effect on an interim basis pending FERC confirmation and approval of this or a substitute rate on a final basis, or until superseded.

Issued in Washington, DC August 3, 1987.

Joseph F. Salgado,

Under Secretary.

[Rate Schedule SLIP-F1 (Supercedes Schedules: SP-F2, SP-FP2, RGP-F3, CP-F/NF-2) (Terminates Schedule RGP-EE1)]

Salt Lake City Area Integrated Projects, Utah, Colorado, New Mexico, Arizona, Wyoming, Nevada—Schedule of Rate for Wholesale Firm Power Service

Effective

Beginning on the first day of the October 1987 billing period, and ending on the last day of the September 1992 billing period.

Available

In the area served by the Salt Lake City Area Integrated Projects.

Applicable

To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate

Demand Charge: $2.09 per kilowatt of billing demand.

Energy Charge: 5.0 mills per kilowatthour of use.

Billing Demand: The billing demand will be the greater of (1) the highest 30-minute integrated demand measured during the month up to, but not in excess of, the delivery obligation under the power sales contract, or (2) the contract rate of delivery.

Billing for Unauthorized Overruns:

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, which overrun shall be billed at ten (10) times the above rate.

Adjustments

For Transformer Losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor: The customer will be required to maintain a power factor at all points of measurement of between 95 percent lagging and 95 percent leading.

[FR Doc. 87-18432 Filed 8-12-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No.: FEMA-REP-5-IL-6]

Certification of FEMA Finding and Determination; the Illinois Plan for Radiological Accidents Site-Specific to the Clinton Power Station

In accordance with the Federal Emergency Management Agency (FEMA) rule, 44 CFR Part 350, the State of Illinois formally submitted its plan relating to the Clinton Power Station to the Director of FEMA Region V on November 25, 1986, for FEMA review and approval. On May 15, 1987, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Clinton Power Station, evaluations of joint exercises conducted on January 13, 1987, and December 4, 1985, in accordance with § 350.9 of the FEMA rule, and a public meeting held on February 25, 1987, to discuss the site-specific aspects of the State and local plans around the Clinton Power Station in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that the State and local plans and preparedness for the Clinton Power Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. On September 15, 1986, the adequacy of the public alert and notification system was verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria of NUREG-0654/FEMA-REP-1, Rev. 1, and FEMA-43 "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" (now published as FEMA-REP-10).

FEMA will continue to review the status of offsite plans and preparedness associated with the Clinton Power Station in accordance with the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-IL-6.

Dated: August 3, 1987.

For the Federal Emergency Management Agency.

Dave McLoughlin,

State and Local Programs and Support.

[FR Doc. 87-18451 Filed 8-12-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Appointment of Receiver; Acadia Savings and Loan Association, Crowley, LA

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Acadia Savings and Loan Association, Crowley, Louisiana, on August 6, 1987.

Dated: August 7, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-18472 Filed 8-12-87; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; Acadia Savings and Loan Association, Crowley, LA

Notice is hereby given that the Circuit Court of the State of Louisiana for the Parish of Acadia has confirmed the appointment by the Commissioner of the State of Louisiana ("Louisiana") of a receiver for Acadia Savings and Loan Association, Crowley, Louisiana ("Acadia") and that pursuant to the authority contained in section 406(c)(1) of the National Housing Act, as amended (12 U.S.C. section 1729(c)(1) (1982), the Federal Savings and Loan Insurance Corporation accepted the tender of the Commissioner of the appointment as receiver for Acadia, for the purpose of liquidation, effective August 6, 1987.

Dated: August 7, 1987.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-18473 Filed 8-12-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Philadelphia Port Corp., et al.

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, DC 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.: 224-200014-001.

Title: Philadelphia Port Corporation Terminal Lease Agreement.

Parties:

Philadelphia Port Corporation

Delaware Operating Company

Synopsis: The provisions of the basic agreement as relates to Parcel "B" of the Packer Avenue Marine Terminals are terminated effective August 4, 1987.

Agreement No.: 224-200014-002.

Title: Philadelphia Port Corporation Terminal Lease Agreement.

Parties:

Philadelphia Port Corporation

Delaware Operating Company

Synopsis: The provisions of the basic agreement as relates to Parcel "C" of the Packer Avenue Marine Terminals are terminated effective August 4, 1987.

Agreement No.: 224–200017.
Title: Philadelphia Terminal Agreement.
Parties:

Philadelphia Port Corporation
Delaware Operating Company (DOC)

Synopsis: The proposed agreement would permit DOC to exclusively manage and operate that portion of the Packer Avenue Marine Terminal described in the Operating Agreement as the Packer Avenue Container Terminal.

Agreement No.: 224–200018.
Title: Philadelphia Terminal Agreement.
Parties:

Philadelphia Port Corporation
Delaware Operating Company (DOC)

Synopsis: The proposed agreement would lease to DOC Packer Avenue Marine Terminal Building G and Berth Number 6 and permit use by DOC of Berth Number 5 and the crane located thereon.

Agreement No.: 224–200016
Title: Jacksonville Terminal Agreement.
Parties:

Jacksonville Port Authority (JPA) and
Trailer Marine Transport Corporation (TMT)

Synopsis: The proposed agreement would grant TMT the exclusive use of 17.14 acres of JPA's Talleyrand Dock and Terminal (TDT) in Jacksonville, Florida and preferential use of the facilities at TDT.

By Order of the Federal Maritime Commission.

Dated: August 10, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–18455 Filed 8–12–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Permissible Nonbanking Activities; Lincolnland Bancshares, Inc.

The organization listed in this notice has 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.

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 September 4, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lincolnland Bancshares, Inc.*, Casey, Illinois; to acquire Max L. Sweet, d/b/a Sweet Insurance Agency, Martinsville, Illinois and thereby engage in general insurance activities in a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) under the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–18446 Filed 8–12–87; 8:45 am]

BILLING CODE 6210–01–M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; New England Merchant Bancshares, Inc., et al.

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 by a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 3, 1987.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *New England Merchants Bancshares, Inc.*, Burlington, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants Bank, Burlington, Vermont, Proctor Bank Rutland, Vermont, First Twin-State Bank, White River Junction, Vermont, and Green Mountain Bank, Bondville, Vermont.

2. *Great Bay Bankshares, Inc.*, Dover, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Southeast Bank for Savings, Dover, New Hampshire.

3. *General Educational Fund, Inc.*, Burlington, Vermont; to acquire 17.8 percent of the voting shares of New England Merchants Bancshares, Inc., Burlington, Vermont; and thereby indirectly acquire Merchants Bank, Burlington, Vermont, Proctor Bank Rutland, Vermont, First Twin-State Bank, White River Junction, Vermont, and Green Mountain Bank, Bondville, Vermont.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eastern Michigan Financial Corporation*, Croswell, Michigan; to acquire 100 percent of the voting share of Sanilac County Bank, Deckerville, Michigan.

2. *Merchants National Corporation*, Indianapolis, Indiana, to merge with Elston Corporation, Crawfordsville, Indiana; thereby indirectly acquire Elston Bank and Trust Company, Crawfordsville, Indiana.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Investors Financial Corporation*, Chillicothe, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Pettis County, Sedalia, Missouri.

Board of Governors of the Federal Reserve System, August 7, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-18447 Filed 8-12-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87D-0208]

Medical Devices; Diagnostic Ultrasound Guidance Update; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Diagnostic Ultrasound Guidance Update—January 30, 1987," prepared by FDA's Center for Devices and Radiological Health (CDRH). The document is intended to update CDRH's guidance to manufacturers, importers, and distributors of diagnostic ultrasound devices regarding: (1) Premarket notification submissions to the agency for the devices to determine whether a new or modified device is substantially equivalent to preamendments devices in commercial distribution; and (2) guidance on prescription labeling for the devices.

DATES: FDA will apply the guidance on prescription labeling on November 1, 1987, for devices manufactured on or after that date.

ADDRESS: Written comments or requests for single copies of the guidance document to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Written comments and requests for single copies should include the docket number that appears in the heading of this notice. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: FDA, primarily through CDRH, regulates medical devices under the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.). One provision of the amendments, section 513 of the act (21 U.S.C. 360c), establishes three categories (classes) of devices, depending upon the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: class I (general controls), class II (performance standards), and class III (premarket approval). Following procedures in the statute, FDA has classified a number of diagnostic ultrasound devices in commercial distribution into class II, e.g., the cardiovascular ultrasonic transducer (21 CFR 870.2880), the fetal ultrasonic monitor and accessories (21 CFR 884.2660), and the obstetric ultrasonic transducer and accessories (21 CFR 884.2960).

Section 510(k) of the act (21 U.S.C. 360(k)) and Subpart E of 21 CFR Part 807, FDA's regulations governing establishment, registration, and device listing for manufacturers of devices, require that under certain circumstances (see § 807.81(a) (1) and (2)), a person who must register under section 510 of the act submit a notification to FDA 90 days before that person begins commercial distribution of a device. Premarket notification is also required when such a person proposes a significant change in design, components, method of manufacture, or intended use of a device in commercial distribution (see § 807.81(a)(3)).

The term "intended use" is defined in 21 CFR 801.4 and the term "adequate directions for use" is defined in 21 CFR 801.5. A prescription device may be exempt from the requirements of adequate directions for use as specified in Subpart D of Part 801. FDA considers a diagnostic ultrasound device a prescription device and therefore exempt from "adequate directions for use" provided that the device is labeled according to the requirements of 21 CFR 801.109.

For several years, CDRH has consulted and corresponded with the medical community and with a trade association representing many of the manufacturers of diagnostic ultrasound devices (the National Electrical Manufacturers Association (NEMA)) (Refs. 20 through 34). This consultation intensified during 1985 and 1986. A meeting was held between CDRH and NEMA on April 29, 1985 (Ref. 23), followed by another meeting and an ultrasonic transducer measurement workshop conducted by CDRH for manufacturers on January 20 and 21, 1986 (Ref. 28). Another meeting between CDRH and NEMA was held on August 6, 1986, with attendees including members of the American College of Cardiology, American College of Obstetricians and Gynecologists, American College of Radiology, and the American Institute of Ultrasound in Medicine (AIUM) (Ref. 31). Letters to CDRH from NEMA of October 6 and 7, 1986, show tentative agreement between NEMA and FDA regarding certain acoustic power levels and other issues relating to premarket notifications (Ref. 33). CDRH also held a meeting with NEMA on October 24, 1986, to discuss the remaining issues (Ref. 34).

During the period of consultation described above, CDRH developed a position regarding technical parameters and labeling of diagnostic ultrasound devices. To inform the regulated industry of CDRH's position, on January 30, 1987, CDRH sent a letter to certain trade associations and to all known manufacturers and distributors of diagnostic ultrasound devices (Ref. 1). The January 30, 1987, letter updated CDRH's earlier guidance (Refs. 2 through 4), rejecting and affirming CDRH's earlier views as set forth in its text.

CDRH's January 30, 1987, letter updated the earlier guidance concerning submission to FDA of premarket notifications for diagnostic ultrasound devices. In the letter, CDRH provided new acoustic output criteria to determine substantial equivalence of diagnostic ultrasound devices. The letter identified those modifications of diagnostic ultrasound device systems and transducers that no longer gave rise to filing 510(k) notifications prior to marketing. Additionally, the January 30, 1987, letter also set forth labeling guidance for ultrasound devices (both systems and transducers) manufactured on or after August 1, 1987.

CDRH believes that the guidance in the January 30, 1987, letter satisfactorily addresses premarket notification issues related to acoustic output concerns, and is acceptable to manufacturers of these devices.

Since the issuance of its letter of January 30, 1987, CDRH has received comments from NEMA, AIUM, manufacturers of diagnostic ultrasound devices, and from other persons (Refs. 5 through 19). The greatest concerns expressed in these comments pertain to CDRH's labeling guidance. The comments described difficulties in implementing the labeling changes CDRH requested within the 6-month period indicated in the letter of January 30, 1987. These comments also requested that the agency delay for 6 months (until February 1, 1988), the effective date of CDRH's labeling guidance.

Accordingly, to immediately initiate a portion of the policy in the January 30, 1987, letter and to receive comments on the entire letter, under the docket number for this notice, FDA is making available to all interested persons its letter of January 30, 1987. This letter provides manufacturers of diagnostic ultrasound devices CDRH's guidance on premarket notification submissions and on labeling for these devices.

The agency is using the criteria in this guidance document to evaluate premarket notification submissions from manufacturers, importers, and distributors of diagnostic ultrasound devices, and to make substantial equivalency determinations regarding such devices. The effective date for the guidance document is August 1, 1987, except that the date of FDA's application of the labeling policy set forth in the January 30, 1987, letter is being delayed 3 months, i.e., until November 1, 1987. FDA believes, responding to concerns raised by industry, that the November 1, 1987, date will provide sufficient time for manufacturers to make any necessary labeling changes related to the labeling guidance in CDRH's letter of January 30, 1987.

FDA is inviting interested persons to submit written comments on its guidance letter of January 30, 1987, to aid the agency in determining whether future amendments to the guidance are warranted. The agency advises that comments submitted earlier to CDRH regarding the letter of January 30, 1987, need not be resubmitted. These comments have already been included in the administrative record under Docket No. 87D-0208 (Refs. 5 through 19).

References

The following references have been placed on display in the Dockets Management Branch (address above) and can be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter from J.C. Villforth to all diagnostic ultrasound manufacturers and distributors—trade associations, January 30, 1987: "Diagnostic Ultrasound Guidance Update."
2. Letter from K. Mohan to all diagnostic ultrasound manufacturers and importers, March 7, 1986: "510(k) Submissions."
3. Letter from K Mohan to all diagnostic ultrasound manufacturers and importers, March 7, 1986: "Doppler Ultrasound for Fetal Evaluation."
4. Letter from J.C. Villforth to all diagnostic ultrasound manufacturers and importers, February 24, 1986: "Exemption from Reporting under 21 CFR Part 1002."
5. Letter from C.R.B. Merritt, President, American Institute of Ultrasound in Medicine (AIUM), to CDRH, May 18, 1987
6. Letter from W.S. Murray, National Electrical Manufacturers Association (NEMA), to CDRH, April 28, 1987.
7. Letter from W.S. Murray, National Electrical Manufacturers Association (NEMA), to CDRH, May 19, 1987
8. Letter from D. Perozek, Chairman, Ultrasound Section, National Electrical Manufacturers Association (NEMA), to CDRH, May 19, 1987.
9. Letter from N.T. Sanghvi, Vice President, Labsonics, Inc., to CDRH, June 4, 1987.
10. Letter from A. Dmitrieff, Thompson Ultrasonic (CGR Ultrasonic), to CDRH, April 21, 1987.
11. Letter from T.J. Sweeney, Regulatory Affairs Manager, Quantum Medical Systems, Division of Toshiba America, Inc., to CDRH, March 19, 1987.
12. Letter from Machiyama, Engineering Manager, Ultrasound, Toshiba Medical Systems, to CDRH, February 26, 1987.
13. Letter from A. Machiyama, Manager, Ultrasound Engineering, Toshiba Medical Systems, to CDRH, April 6, 1987.
14. Letter from M. Uehara, Vice President, Hitachi Medical Systems, to CDRH, February 17, 1987.
15. Letter from G. Myers, Medsys, Inc., to CDRH, March 31, 1987
16. Letter from W.D. Sterling, Production Manager, Biophysic Medical, Inc., to CDRH, April 15, 1987.
17. Letter from W.L. Nyborg, Professor, University of Vermont, to CDRH, February 16, 1987.
18. Letter from C.R. Burr, Regulatory Affairs Manager, Andover Division, Hewlett-Packard Co., to CDRH, March 3, 1987 (comments on CDRH letter of January 30, 1987).
19. Letter from C.R. Burr, Regulatory Affairs Manager, Andover Division, Hewlett-Packard Co., to CDRH, March 3, 1987 (fetal use transducer labeling).
20. Letter from R. G. McCune, Division Manager, National Electrical Manufacturers Association (NEMA), to CDRH, May 17, 1984.
21. Letter from R. G. Britain, Director, Office of Device Evaluation, CDRH, to R. A. Meyer, President, American Institute of Ultrasound, April 16, 1985, and related correspondence.
22. Letter from R. G. Britain, Director, Office of Device Evaluation, CDRH, to J. Kisslo, Chairman, Legislative and Regulatory Committee, American Society of Echocardiography, April 16, 1985, and related correspondence.
23. List of attendees at an FDA/Industry meeting held on April 29, 1985. At that meeting, the working agenda was a document entitled "Center Response to February 4, 1985, NEMA Critique of 510(k) Guide for Measuring and Reporting Acoustic Output of Diagonstic Ultrasound Medical Devices."
24. Letter from W. S. Murray, Section Staff Executive, National Electrical Manufacturers Association (NEMA), to CDRH, May 21, 1985, and attached technical data.
25. Letter from W. S. Murray Section Staff Executive, National Electrical Manufacturers Association (NEMA), to CDRH, June 11, 1985, and CDRH's reply of July 1, 1985.
26. Letter from W. S. Murray, Section Staff Executive, National Electrical Manufacturers Association (NEMA), to CDRH, July 10, 1985.
27. Letter from G. R. Harris, CDRH, to W. Murray, National Electrical Manufacturers Association (NEMA), January 3, 1986, including CDRH's response to "Summary of NEMA Member Questions and Comments on SPTP Measurements" (undated), with technical references.
28. Letter of December 24, 1985, from CDRH to all ultrasound manufacturers and other interested persons announcing a seminar and workshop to exchange information regarding diagnostic ultrasound. Also attached are the agendas for the seminar held on January 21, 1986, and the measurement workshop held on January 22, 1986.
29. Letter from R. G. McCune, Vice President, Division Operations, National Electrical Manufacturers Association (NEMA), to CDRH, April 22, 1986 (17 pages).
30. Document entitled "Office Copy—Draft Response to April 22, 1986, NEMA Inquiry—August 5, 1986" (see Ref. 29), with attached note of August 5, 1986. Document was intended as working paper for CDRH meeting with NEMA scheduled for August 6, 1986 (see Ref. 31).
31. Document entitled "Memorandum of Meeting between NEMA and Center for Devices and Radiological Health Staff," August 6, 1986.
32. Letter from Lillina Yin, CDRH, to W. S. Murray, Section Staff Executive, National Electrical Manufacturers Association (NEMA), August 25, 1986, with attached technical data, followup to meeting of August 6, 1986 (Ref. 31).
33. Letter from D. M. Perozek, Chairman, Ultrasound Section, National Electrical Manufacturers Association (NEMA), to J. S. Benson, CDRH, October 6, 1986. Letter from W. S. Murray, Section Staff Executive, National Electrical Manufacturers Association (NEMA), to K. Mohan, CDRH, October 7, 1986.
34. Document entitled "Memorandum of Meeting between NEMA and CDRH," October 24, 1986.

Interested persons may, at any time, submit written comments regarding the guidance to the Dockets Management Branch (address above). Such comments will be considered in determining whether further amendments to or revisions in the guidance are warranted. Two copies of any comments are to be submitted, except that individuals may

submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 7, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-18531 Filed 8-11-87; 9:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings

The following advisory committee meetings are announced:

Gastrointestinal Drugs Advisory Committee

Date, time, and place. September 10 and 11, 1987, 9 a.m., Parklawn Bldg., Conference Rms. D & E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 10, 1987, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m., September 11, 1987, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drugs and Biologics (HFN-180), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-442-0479 or 419-259-6211.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of gastrointestinal disorders and diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should notify the contact person.

Open committee discussion. The committee will discuss (NDA 19-508) Eli Lilly & Co., Axid (nizatidine) for treatment of duodenal ulcer and for maintenance therapy of healed duodenal ulcer; (NDA 19-651) Norwich Eaton Pharmaceuticals, Inc., and Tillotts Laboratories, Asacol (mesalamine tablets) for induction of remission in ulcerative colitis and for maintenance of remission in ulcerative colitis.

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. September 28 and 29, 1987, 9 a.m., Conference Rms. G & H Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 28, 1987, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, September 28, 1987, 10 a.m. to 5 p.m., September 29, 1987, 9 a.m. to 12 m.; John R. Short, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3510.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should notify the contact person.

Open committee discussion. The committee will discuss (1) the necessity to use a control group and to follow patients until ultimate height in the investigation of growth hormone for the treatment of nongrowth-hormone-deficient children with short stature, (2) use of an integrated test method to determine growth-hormone deficiency, and (3) the approvability of Sandostatin (octreotide) for treating tumors.

FDA public advisory committee meetings may have as many as four separarble portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long, it is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 7, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–18442 Filed 8–12–87; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Acquired Immunodeficiency Syndrome Drug Reimbursement Program

The Fiscal Year 1987 Supplemental Appropriation (Pub. L. 100–71) included $30,000,000 to cover the cost of azidothymidine (AZT), and any other drug which has been determined by the Food and Drug Administration to prolong the life of a person with acquired immunodeficiency syndrome (AIDS).

These funds will be awarded to States by a formula based on the number of living AIDS patients residing in each State as reported by the Centers for Disease Control on July 6, 1987. The money is to be made available by the States for low-income individuals not covered by the State Medicaid program or another third-party payor, or whose State Medicaid program does not provide this drug coverage.

This is a one-time-only drug reimbursement program to cover drug expenses for eligible individuals through September 30, 1988. These funds are to be used only for drug procurement and not for Federal or State administrative expenses associated with the program.

States particpating in the AIDS drug reimbursement program have agreed in writing to comply with the following provisions:

(1) Agree to use the funds only to pay for AIDS drugs for low-income persons not covered under the State Medicaid program or by another third-party payor or for individuls covered by Medicaid if the State Medicaid program does not provide this drug coverage. If the State Medicaid program covered AZT and other AIDS drugs as of April 1, 1987, the State may not change its Medicaid policy subsequent to that date with respect to AIDS drug eligibility or the Federal Government may find the State ineligible for the AIDS drug reimbursement program and withdraw the funds allocated to that State.

(2) Define low-income for the purposes of this program, which may include provisons for copayments by patients.

(3) Give priority to qualified individuals who meet the low income definition and who received AZT under the treatment investigational new drug program.

(4) Maintain the confidentiality of patients who apply for eligibility under this program.

(5) Comply with the nondiscrimination requirements of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 dealing with handicapped individuals, and pertinent HHS regulations governing discrimination based on age or sex.

Individuals interested in the AIDS drug reimbursement program should contact the appropriate office in their State and may obtain information on their State contact by calling a special hotline number, 1 800 843–9388, operated as a public service by Burroughs Wellcome Company. The hotline is staffed Monday-Friday 9:00 a.m.–9:00 p.m. and Saturday 10:00 a.m.–6:00 p.m., EDT.

A Catalog of Federal Domestic Assistance number has been requested.

Dated: July 16, 1987.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87–18433 Filed 8–12–87; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of establishment of a new Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to establish a new Privacy Act system of records: 09–25–0158, "Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD." This system will be used to administer the Intramural Research Training Awards (IRTA) Program at the National Institutes of Health (NIH).

DATES: PHS invites interested persons to submit comments on the proposed new system on or before September 14, 1987. PHS has sent a report of new system to the Congress and to the Office of Management and Budget (OMB) on August 5, 1987. The system of records will be effective 60 days from the date submitted to OMB, unless PHS receives comments on the new system which would result in a contrary determination.

ADDRESS: Comments should be addressed to the NIH Privacy Act Coordinator at the address listed below. Comments received will be available for inspection from 9 a.m. to 3 p.m., Monday through Friday, in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Barbara Bullman, J.D., NIH Privacy Act Coordinator, Building 31, Room 3B03D, 9000 Rockville Pike, Bethesda, MD 20892, Telephone (301) 496–2832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: NIH proposes to establish a new system of records: 09–25–0158, "Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program HHS/NIH/OD." This proposed system of records will be comprised of records related to the administration of the NIH Intramural Research Training Awards (IRTA) Program. In addition, the records will consist of information to determine an individual's eligibility, to evaluate an individual's qualifications, to document management's actions, and to evaluate the IRTA Program

The NIH IRTA Program is designed to provide advanced training and practical research experience to candidates with Ph.D., M.D., D.D.S., D.M.M., D.V.M., or equivalent degrees and 3 years or fewer of professional level, relevant, post-doctoral research experience. Candidates must either have been awarded their doctoral degrees in biomedical, behavioral, or related sciences, or have been certified by a university as meeting all the requirements leading to such a doctorate. Candidates must be either U.S. citizens or permanent residents (resident aliens).

The IRTA Fellows are not Government employees. The Fellowship awards are subject to the availability of space, funds, and preceptor time, and limited by the number of high-quality training assignments available. The IRTA Fellowships are supported by intramural program funds.

IRTA Fellowships are not awarded to physicians whose primary function is the furnishing of medical care to patients, to scientists who have already demonstrated significant research achievements or who have proven records as independent investigators, or to individuals for other than scientific research.

Fellowship awards are made for either one or two years, and are subject to the approval of the Associate Director

for Intramural Affairs, NIH, or the Deputy Director for Intramural Research, NIH. Awards may be renewed in one-year increments up to a maximum duration of three years in the Program. Renewals may be approved by the appropriate institute Scientific Director, NIH.

Participants in the Program are limited to the research institutes of the NIH. The Program does not apply to the Office of the Director, NIH; the National Library of Medicine; the Division of Computer Research and Technology; the Division of Research Grants; the Division of Research Resources; the Division of Research Services; the Fogarty International Center; the Warren Grant Magnuson Clinical Center; the National Center for Nursing Research; or to any other component of the PHS.

Records collected under this system will be maintained in a centralized IRTA Fellowship applicant supply file for referral of candidates to the institutes and for their internal use. Therefore, in addition, the records will be maintained in the offices where the fellows are assigned, intramural personnel offices and administrative offices.

The records in this system will be maintained in a secure manner compatible with their content and use. The records will be available only to NIH scientists, administrative office staff, personnel staff and financial management staff who are directly involved in the administration of the IRTA Program.

The routine uses proposed for this system are compatible with the stated purposes of the system in the planning for, conducting, managing, and evaluation of this Program.

A routine use permitting disclosure to the Office of Personnel Management (OPM) is proposed to permit disclosure of fellowship records to OPM staff during the course of OPM evaluations of NIH personnel programs.

A routine use permitting disclosure to a congressional office is proposed to allow subject individuals to obtain assistance from their representative in Congress, should they desire. Such disclousre would be made only pursuant to a request of the individual.

A routine use is proposed to permit disclosure to appropriate Federal, State or local agencies information that indicates a violation or potential violation of law, so that the violation can be investigated by the agency authorized to do so and proper enforcement action can be taken when violations are confirmed.

A routine use is proposed to permit disclosure to Federal, State or local agencies, to the extent necessary, to verify information supplied by prospective fellows, such as licenses to practice medicine, and to assure that prospective fellows do not have a criminal record that would be inconsistent with their participation in the IRTA Program.

The possibility of lawsuits in which individuals may claim to have been harmed as a result of the activities supported by this system motivates the proposal of a routine use which would allow the Department of Justice to defend the Federal Government, the Department or employees of the Department in case of such lawsuits. This proposed litigation routine use would allow the Agency to disclose information to initiate legal proceedings against a subject individual for prosecution purposes where the system manager and legal advisors have determined the need.

The proposed system of records will not become effective until 60 days after the date it was reported to OMB, as discussed above. However, the following notice is written in the present rather than future tense, in order to avoid unnecessary expenditure of public funds to republish the notice after the system becomes effective.

Dated: August 6, 1987.

Wilford J. Porbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-25-0158

SYSTEM NAME:

Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

Office of the Associate Director for Intramural Affairs, National Institutes of Health, Building 1, Room 103, 9000 Rockville Pike, Bethesda, MD 20892. And at locations in each of the intramural offices and laboratories where the Intramural Research Training Awards (IRTA) Fellow is located and assigned, including the respective Scientific Director's office, the administrative and personnel offices, and in Division of Personnel Management branches responsible for administering the IRTA Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRTA Fellowships, current IRTA Fellows, and former IRTA Fellows.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, scientific publications; research goals; letters of reference; and personal information such as name, date of birth, Social Security number, home address and citizenship; and information related to fellowship awards such as stipend levels, training assignments, training expenses and travel allowances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 284(b)(1)(C) authorizes PHS to make awards for biomedical research and research training.

PURPOSE OF THE SYSTEM:

Records in this system are used to determine individual's eligibility and evaluate their qualifications for IRTA Fellowships; to document the basis for management actions relating to Fellowships that are awarded; and to provide data for program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

Disclosure may be made to:

(1) The Office of Personnel Management for evaluation of NIH Personnel programs;

(2) A congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual;

(3) The Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is

compatible with the purpose for which the records were collected;

(4) A Federal, State or local agency maintaining civil, criminal or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the selection or retention of a fellow; and

(5) A Federal agency, in response to its request, in connection with hiring or retention of an employee, the issuance of a security clearance, an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or institute list number.

SAFEGUARDS:

(1) Authorized Users: Access is granted only to NIH scientists, administrative office staff, personnel staff and financial management staff directly involved in the administration of the IRTA Program.

(2) Physical Safeguards: File folders are kept in locked drawers or locked rooms when system personnel are not present.

(3) Procedural Safeguards: Access to file folders is controlled by system personnel. Records may be removed from the files only with the approval of the system manager or other authorized employees. Data stored in the automated system is accessed through the use of keywords known only to authorized personnel.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, Supplementing chapter PHS. hf: 45–13, and Part 6, "ADP Systems Security" of the HHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Manual records of individuals who receive IRTA Fellowships are retained while the fellowship is active and for 3 years after the fellowship terminates. Manual records of the individuals who do not receive fellowships may be retained for up to four months from the date of receipt. Manual records are disposed of by burning or shredding.

Computer records may be kept indefinitely for program evaluation purposes.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Intramural Affairs, NIH, Building 1, Room 103, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. A list of accountable disclosures that have been made of your record may be disclosed.

CONTESTING RECORD PROCEDURES:

Write to the official specified under the notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is untimely, incomplete, irrelevant or inaccurate.

RECORD SOURCE CATEGORIES:

Applicants, persons and institutions supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87–18496 Filed 8–12–87; 8:45 am]
BILLING CODE 4110–08–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Irrigation Project; Proposed Increase to the Blackfeet Irrigation Operation and Maintenance Charges; Montana

AGENCY: Blackfeet Agency, Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: This notice sets forth that the Blackfeet Irrigation Project proposes an operation and maintenance increase. The proposed increase would change the current rate of six dollars per assessable acre to seven dollars and fifty cents per assessable acre.

This notice is the result of the meeting held at the Blackfeet agency on April 29, 1987. Those in attendance at the meeting were:

Bureau of Indian Affairs
Representatives
Norris M. Cole, Billings Area Office
Bill Gipp, Superintendent, Blackfeet Agency
Ed LeMieux, Irrigation Project Manager
Seville Water Users Association
Steve Anderson Calvin Augare
Jerry Johnson
Rod Perry
Badger-Fisher & Birch Creek Association
Bill Smith
Larry Stoltz
George Stoltz
Doug Hennman

Synopsis of the Meeting: The Water User Representatives discussed the proposed operation and maintenance increase of $1.50 per assessable acre for the irrigation season 1988. In addition, the Bureau of Indian Affairs would maintain individual collection and expenditure records for the Seville and Badger-Fisher & Birch Creek units beginning on October 1, 1987.

Outside Water Contracts will be required to pay the operation and maintenance charges.

Excess water charges will be $3.75 per acre.

The due date for all operation and maintenance charges will be May 1 of each fiscal year.

Interest and/or penalty fees will be assessed on all (Indian, Non-Indian, and individual corporations) delinquent operation and maintenance charges as prescribed in the Code of Federal Regulations, Chapter 4, Part 102. The exception to this rule are the government agencies, such as Federal, State and Tribal Governments.

This notice will be published, posted and announced at the following locations:

U.S. Post Offices
Browning, Mt. 59417
Cut Bank, Mt. 59427
Valier, Mt. 59486
Radio Stations
KCTB Radio, 4 Central, Cut Bank, Mt. 59427
KSEN Radio, 830 Oilfield Ave., Shelby, Mt. 59474
Water Users Associations

Badger-Fisher & Birch Creek, c/o Larry Stoltz, Vail, Mt. 59486

Irrigation Camps

Two Medicine

Two Medicine

Badger-Fisher

Newspapers

Glacier Reporter, Browning, Mt. 59417

Cut Bank Pioneer Press, Cut Bank, Mt. 59427

Water Users Associations

Seville Water Users Associations, Cut Bank, Mt. 59427

Comments: All comments are to be written and mailed to the Bureau of Indian Affairs, Blackfeet Agency, Browning, Montana 59417. Comments must be received by the end of the business day on September 11, 1987.

SUPPLEMENTARY INFORMATION: This notice issued pursuant to Code of Federal Regulations, Chapter 25, Part 171 under the authority delegated to the Area Director, Assistant Secretary for Indian Affairs and the Deputy Assistant Secretary of the Interior.

Richard Whitesell,

Billings Area Director.

[FR Doc. 87-18434 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Alaska AA-48685-I; AK-980-GP7-0074]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48685-I has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 22 S., R. 2 E.,
Sec. 22, NW¼NW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from December 1, 1986, the date of termination, have been paid.

Having met all the rquirements for reinstantement of lease AA-48685-I as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective December 1, 1986, subject to the terms and conditions cited above.

Dated: August 7, 1987.

Paula M. Benson,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 87-18460 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-JA-M

[CA-060-07-4212-13; CA-20278]

California Desert District Notice of Realty Action; Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action CA-20278, Exchange of Public and Private Lands.

SUMMARY: The following described lands in San Bernardino County have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 3N., R. 5W.,
Sec. 17: NW¼;
Comprising 160 acres of public land.

In exchange for these lands, the United States will acquire the following described lands in San Bernardino County from Rex Monroe:

San Bernardino Meridian, California

T. 7N., R. 3W.,
Sec. 1: NE¼W½ Lot 1 of NE¼, NW¼W½ Lot 1 of NE¼, SW¼W½ Lot 1 of NE¼, E½ Lot 2 of NE¼, NW¼W½ Lot 2 of NE¼;
T. 8N., R. 3W.,
Sec. 36: N½ NE¼, NE¼ SW¼, SE¼ SE¼;
Comprising 239.775 acres of private lands.

The purpose of this exchange is to acquire non-federal inholdings within the Stoddard Valley Off-Highway Vehicle Recreation Area to increase management efficiency and reduce recreation-private property conflicts. Portions of a main access road to the area would be acquired. Completion of the exchange would be an incremental step in consolidation of public lands in Stoddard Valley. The exchange is consistent with the Bureau's planning for the land involved. The public interest will be served by making the exchange.

The values of the lands to be exchanged are approximately equal. Full equalization of values will be achieved by acreage adjustment or a payment to the United States by Rex Monroe of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

A. The following will be excepted from the land patents and reserved to the United States:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All of the oil and gas, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated into the patent documents, is available for review at the locations identified below.

3. An existing oil and gas lease granted to Buttes Resources Company, its successors or assigns, by serial number CA-6206, under the Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181)

4. A right-of-way for fuel breaks and access roads and purtenances constructed by the United States in accordance with grant number R-06969, issued to the Forest Service, U.S. Department of Agriculture, pursuant to Departmental Instructions of January 13, 1916 (44 L.D. 513).

B. Certain parcels of the public lands to be transferred from the United States will be patented subject to the following:

1. An easement for public roads and utilities along each parcel boundary. The easement will be 40 feet wide along section and quarter section lines, and 33 feet wide along all other parcel boundaries which are not along a section or quarter section line.

2. Those rights for the operation, use and maintenance of a 500kV electric transmission line, granted to the Southern California Edison Company, its successors or assigns, by serial number LA-053099, under the Act of December 21, 1928 (45 Stat. 1057; 43 U.S.C. 617d).

3. Those rights for the operation, use and maintenance of an underground fiber-optic communications, cable, granted to Williams Telecommunications Company, its successors or assigns, by serial number CA-19143, under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Lands to be transferred from Rex Monroe will be subject to the following reservations, terms, and conditions:

1. Mineral rights for oil and gas were previously reserved by a third party on T. 7N., R. 3W., SBM, Section 1, NW¼W½ Lot 2 of NE¼.

2. All mineral rights were previously reserved by the State of California on:

T. 8N., R. 3W., SBM
Sec. 36: N½NE¼, NE¼SW¼, SE¼SE¼;

3. Mineral rights for iron ore would be reserved by Mr. Monroe on:

T. 7N., R. 3W., SBM
Sec. 1: N½W½ Lot 1 of NE¼, SW¼W½ Lot 1 of NE¼;

4. A right-of-way granted to the County of San Bernardino for the Stoddard Mountain Road (#81261) across:

T. 7N., R. 3W., SBM
Sec. 1: E½ Lot 2 of NE¼;
T. 8N., R. 3W., SBM,
Sec. 36: N½NE¼, SE¼SE¼;

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws, including the mining laws but not the mineral leasing laws. The segregative effect will terminate upon issuance of patent or two years from the date of publication, whichever occurs first.

Further information concerning the exchange, including the Environmental Assessment/Land Report, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507 and the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311.

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, California Desert at the above address. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: August 7, 1987.

Wes Chambers,

Acting District Manager.

[FR Doc. 87-18499 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-40-M

[ID-030-07-4212-14; Public Land Sales I-20355 and I-23363]

Realty Action; Idaho Falls District; Bingham County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, rescheduled date of public land sales, Bingham County, Idaho.

SUMMARY: In order to allow time to analyze protests, public land sales I-20355 and I-23363, originally scheduled for Tuesday, June 30, 1987 have been rescheduled for Tuesday, September 22, 1987. Unsold parcels will be reoffered each Tuesday through October 27, 1987, on which date the sale offerings will be suspended. All other information concerning these parcels, as published in the April 30, 1987 **Federal Register** (Vol. 52, No. 83), remains unchanged with the exception that the appraised fair market value of parcel I-23363 is $6,000 and not $3,000 as originally published. Detailed information concerning these sales may be obtained from Barbara Klingenberg at (208) 529-1020 (Bureau of Land Management, 940 Lincoln Rd., Idaho Falls, ID 83401).

Sincerely,

Gary Bliss,

Acting District Manager.

[FR Doc. 87-18435 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-66-M

[OR-39468; OR-943-07-4220-11: GP-07-247]

Realty Actions; Conveyance of Public Land; Order Providing for Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 40 acres of public land out of Federal ownership. This action will also open approximately 14.20 acres of reconveyed land to surface entry.

EFFECTIVE DATE: September 23, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503-231-6905).

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 40 acres of land in Coos County, Oregon, from Federal to private ownership.

2. In the exchange, the following described land has been reconveyed to the United States:

Willamette Meridian

T. 30 S., R. 15 W.,
sec. 2, that portion of the NW¼ described as follows: Beginning at a point on the North line of Section 2, said point being 904.55 feet Westerly of the North ¼ corner of said Section 2; thence South 11°52'11" West, 213.74 feet; thence South 33°17'37"West, 255.02 feet; thence South 28°05'29" West, 204.30 feet; thence South 02°21'58" East 210.46 feet; thence South 13°53'04" East 110 feet, more or less, to the North bank of Lower Four Mile Creek; thence running Westerly along the North bank of said Four Mile Creek to a point on the West line of said Section 2, said point being located 250 feet, more or less, South of the Northwest corner of said Section 2; thence North along the said West line of Section 2, 250 feet, more or less, to the Northwest corner of said Section 2; thence Easterly along the North line of said Section 2, 1736 feet, more or less to the point of beginning.

Save and Except Therefrom the Following: A parcel of land beginning at the ¼ corner (North) of said Section 2; thence North 89°40'46" West along the North line of said Section 2, 904.55 feet to the true point of beginning; thence North 89°40'46" West, 62.82 feet; thence South 9°29'14" West, 192.11 feet; thence South 30°54'40" West, 270.94 feet; thence North 83°13' West, 594.73 feet; thence South 20°19'14" West, 190.00 feet; thence South 00°19'14" West, 425.86 feet to the North edge of Fourmile Creek; thence Easterly along the North edge of Fourmile Creek 744± feet to the East boundary of the property conveyed to OREGON SHORES ASSOCIATED and recorded on Microfilm Number 73-6-86449-51, County Courthouse Deed Records; thence Northerly along said Easterly boundary to the point of beginning.

The area described contains approximately 14.20 acres in Coos County.

3. At 8:30 a.m., on September 23, 1987, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on September 23, 1987, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Dated: August 7, 1987.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-18459 Filed 8-12-87; 8:45 am]

BILLING CODE 4310-33-M

[ID-010-07-4410-08]

Availability of Proposed Resource Management Plan and Final Environmental Impact Statement; Proposed Area of Critical Environmental Concern; Cascade Resource Areas, ID

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of proposed Resource Management Plan and Final Environmental Impact Statement (RMP/EIS); and proposed Area of Critical Environmental Concern (ACEC) designations.

SUMMARY: Pursuant to section102 (2)(C) of the National Environmental Policy Act of 1969 and 43 CFR Part 1600, the Bureau of Land Management (BLM) has

prepared a Proposed Resource Management Plan (RMP) and associated Final Environmental Impact Statement (EIS) for the Cascade Resource Area. The Cascade RMP/EIS addresses alternative management actions on 487,466 acres of BLM administered public lands in west-central Idaho. Included in the proposed plan are three tracts for Area of Critical Environmental Concern (ACEC) designation. This notice therefore is also issued pursuant to § 1610.7–2(b) of the BLM Planning Regulations.

The proposed plan will undergo a 30 day protest period. Following resolution of any protests that may be received, a decision document will be published and distributed to the public.

ADDRESS: Written protests should be sent to the Director, Bureau of Land Management, 18th and C Streets, Washington, DC 20240. The 30 day protest period will end on September 21, 1987.

FOR FURTHER INFORMATION CONTACT: Richard A. Geier, Cascade Area Manager or Fred Minckler, Team Leader at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. Telephone (208) 334–1582. Copies of the document are available at this Boise Office.

SUPPLEMENTARY INFORMATION: The Cascade RMP/EIS describes and analyzes five alternative plans for managing natural resources in the Cascade Resource Area over the next 15 to 20 years. One alternative, the proposed plan, is identified as BLM's preferred alternative

The alternative plans presented in the Cascade RMP/EIS were developed to resolve the planning issues identified through public involvement early in the planning process and have been refined in response to public comments received on the draft document. The key planning issues addressed in the RMP/EIS are land tenure and adjustment, rangeland resource management, and future management of the Payette River Corridor. Special management concerns also addressed in the document include off-road vehicle use, timber management, and special designations. The alternative plans include different resource use levels and constraints to address the planning issues. One alternative is a "No Action" alternative designed to represent the continuation of present resource use levels and systems.

The Cascade RMP/EIS addresses three tracts for designation as Areas of Critical Environmental Concern (ACEC). The alternatives range from all three tracts designated as ACECs to no designation on these tracts. The proposed plan includes all three tracts to be designated as ACECs and approval of the RMP will constitute formal designation of these tracts as ACECs. The three tracts are the Boise Front, Columbian sharp-tailed grouse habitat area, and Long-billed curlew habitat area.

The Bosie Front containing 12,000 acres of public land would be designated an ACEC under the Proposed Plan. Once designated an ACEC, BLM would restrict vehicle use to protect the watershed values in the area. Additional managment actions would be initiated to protect watershed, recreation, and visual quality values.

The Columbian sharp-tailed grouse habitat area containing 4,200 acres of public land north of Weiser, Idaho would be designated an ACEC under the Proposed Plan. Once designated an ACEC, BLM would restrict vehicle use, seasonally limit mineral leasing activities and rights-of-way construction activities, and manage livestock grazing to benefit the Columbian sharp-tailed grouse.

The Long-billed curlew habitat area containing 61,000 acres of public land between Emmett, Idaho and Parma, Idaho would be designated an ACEC under the Proposed Plan. Once designated an ACEC, BLM would restrict vehicle use and seasonally limit mineral leasing activities and rights-of-way construction activities.

The document also addresses Research Natural Area (RNA) designation on five tracts. The alternatives range from none of these tracts designated as RNAs to all five tracts designated as RNAs. In the proposed plan, these five tracts would be designated as RNAs and managed to protect important plant species. These tracts are summarized below.

Lost Basin Grassland is a 65 acre site east of Brownlee Dam which contains a sensitive plant species. Use restrictions would apply to livestock grazing, leasable minerals, rights-of-way, and off-road vehicles.

Rebecca Sandhill is a 410 acre site east of Weiser which contains a candidate (for threatened or endangered listing) plant species. Use restrictions would apply to livestock grazing, leasable minerals, rights-of-way, and off-road vehicles.

Summer Creek encompasses 240 acres east of Oxbow Reservoir which contains sensitive plant species. Use restrictions would apply to leasable minerals, rights-of-way, and off-road vehicles.

Buckwheat Flats is a 200 acre site near Midvale which contains sensitive and uncommon plant species. Use restrictions would apply to leasable minerals, rights-of-way, and off-road vehicles.

Goodrich Creek is a 440 acre site southwest of Council containing a good riparian zone and shrub community. Use restrictions would apply to livestock grazing, leasable minerals, rights-of-way, and off-road vehicles.

J. David Brunner,

District Manager.

[FR Doc. 87–18461 Filed 8–12–87; 8:45 am]

BILLING CODE 4310-GG-M

[CO-942-06-4520-12]

Filing of Plats of Survey; Colorado

August 3, 1987.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 A.M., August 3, 1987.

The plat, in 5 sheets, representing the dependent resurvey of portions of the north boundary, the subdivisional lines, and certain mineral surveys, and the survey of the subdivision of section 3, T. 15 S., R. 70 W., Sixth Principal Meridian, Colorado, Group No. 733, was accepted July 23, 1987.

The plat representing the dependent resurvey of a portions of the west boundary of the Sangre de Cristo Grant and the subdivisional lines, and the survey of the subdivision of section 22, T. 33 S., R. 11 E., New Mexico Principal Meridian, Colorado, Group No. 818, was accepted July 22, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87–18436 Filed 8–12–87; 8:45 am]

BILLING CODE 4310-JB-M

[MT-060-4410-08-2111]

Lewistown District Advisory Council Meeting; Montana

AGENCY: Bureau of Land Management, Lewistown District Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Advisory Council will meet September 9, 1987. The meeting will convene at 10

a.m. at the James Kipp State Recreation Area, where the Fred Robinson Bridge crosses the Missouri River.

The meeting will begin with the presentation about cultural resources in the vicinity of the James Kipp Park. The council will then travel to Zortman for lunch and briefings on the status of the West HiLine Resource Management Plan and the District Manager's highlights. After these briefings the council will tour the Zortman/Landusky Mine. The meeting will adjourn following the tour.

Because of limited capacity, members of the public who wish to participate must furnish their own transportation.

DATE: September 9, 1987, 10 a.m. to 4 p.m.

ADDRESS: Zortman Mine, Zortman, Montana.

FOR FURTHER INFORMATION CONTACT: Wayne Zinne, District Manager, Bureau of Land Management, Lewistown, Montana 59457. Telephone Number: (406) 538–7461.

SUPPLEMENTAL INFORMATION: The Lewistown District Advisory Council is authorized under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739). The Council advises the District Manager concerning the planning for the management of the public lands administered within the Lewistown District.

Date: August 6, 1987.

Wayne Zinne,

District Manager.

[FR Doc. 87–18462 Filed 8–12–87; 8:45 am]

BILLING CODE 4310-DN-M

Minerals Management Service

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4784, Block 28, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on August 6, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Lousiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: August 6, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–18463 Filed 8–12–87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; TXP Operating Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that TXP Operating Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5205, Block 211, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on August 6, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: August 6, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–18512 Filed 8–12–87; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31084]

NRUC Corp.; Merger Exemption for St. Lawrence Railroad Division

NRUC Corporation (NRUC) and its wholly-owned subsidiary, Peninsula Terminal Company (PENT), have filed a notice of exemption to transfer PENT's St. Lawrence Railroad division (STL) to NRUC. STL will become a division of NRUC. The transfer will be effected on or after July 22, 1987. The proposed transaction is intended to simplify NRUC's corporate structure, and results in various efficiencies and economies.

STL operates a Class III shortline railroad between Ogdensburg, Norwood, and Waddington, NY. PENT operates a Class III shortline railroad at Portland, OR. NRUC controls Pickens Railroad, in addition to being the parent of PENT, and, in turn, of STL.

The transfer of STL to NRUC is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). This transaction will not result in any adverse changes in the level of service to shippers, or significant operational changes. The STL will continue to operate as at present, but will simply be a division of NRUC rather than of PENT.[1] The transfer will not have any impact on the competitive balance with carriers outside the corporate family.

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under section 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), will be imposed.[2]

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 automatically stay the transaction. Pleadings must be filed with the Commission and served on: Andrew P. Goldstein, 703 Ring Building, 1200 Eighteenth Street, NW., Washington, DC 20036.

Decided: August 7, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-18628 Filed 8-12-87; 8:45 am]

BILLING CODE 7035-01-M

[1] STL was originally a division of NRUC, but was transferred to PENT. A notice of exemption regarding that transfer was filed in Finance Docket No. 30744 on November 5, 1985.

[2] The Railway Labor Executives' Association (RLEA) filed a request for labor protection. The United Transportation Union has asked to become a party to this protest. Since this transaction involves an exemption from 49 U.S.C 11343, imposition of the labor protective condition is mandatory and has been imposed above.

[Docket Nos. AB-33 (Sub-No. 45) and AB-37 (Sub-No. 24)]

Union Pacific Railroad Co. and Oregon-Washington Railroad & Navigation Co.; Railroad Services Discontinuance and Abandonment in Walla Walla and Columbia Counties, WA

The Commission has issued a certificate authorizing the Union Pacific Railroad Company to discontinue service over, and the Oregon-Washington Railroad & Navigation Company to abandon, a 7.47-mile rail line extending from milepost 71.36 near Bolles to the end of the line at milepost 78.83 near McKay in Walla Walla and Columbia Counties, WA. 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 railroads.

Any financial assistance offer must be filed with the Commission and the applicants 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 Part 1152.

Noreta R. McGee,

Secretary.

[FR Doc. 87-18449 Filed 8-12-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Cooperative Agreement; Program Announcement; Availability of Funding; Shelter Care and Other Related Child Welfare Services to Alien Minors

AGENCY: Community Service Service (CRS), Justice.

ACTION: Notice of availability of funding for a Cooperative Agreement to support a program which provides shelter care and other related child welfare services to alien minors detained in the custody of the United States Department of Justice, Immigration and Naturalization Service (INS).

SUMMARY: This announcement governs the award of a Cooperative Agreement to public or private non-profit organizations or agencies and, under certain conditions, to for-profit organizations or agencies, to provide shelter care and other related child welfare services to alien minors detained in the custody of the United States Department of Justice, Immigration and Naturalization Service.

An award will be made to one (1) organization. This award is for the purpose of funding a licensed child welfare program which provides shelter care and other related child welfare services to male and frmale alien minors under 18 years of age who are referred to the Commuity Relations Service by the Immigration and Naturalization Service.

These child welfare services will afford alien minors a structured, safe and productive environment which meets or exceeds respective state guidelines and standards for similar services designed to serve minors in their care and custody. Applications submitted pursuant to this announcement must plan for the delivery of services to a minimum population of 10–15 alien minors.

The adminsitration of the Cooperative Agreement awarded under this announcement will require the substantial involvement of the Federal Government. The level and scope of Federal involvement is delineated in the Community Relations Service document entitled *Alien Minors Shelter Care Program—Description and Requirements.* This document is included in the Proposal Application Package available from the Community Relations Service.

DATE: *Closing Date:* 5:00 p.m., Eastern Daylight Time, Friday, September 25, 1987.

Proposals will be competitively reviewed, evaluated, rated and numverically ranked by an independent panel of experts on the basis of weighted critieria listed in this Notice. All final funding decisions are at the discretion of the Director, Community Relations Service. This award is subject to the availability of funds and the concurrence of the Assistant Commissioner, Detention and Deportation, Immigration and Naturalization Service.

Authorization

Authorities for the provision of certain child welfare services to alien minors detained in the custody of the Immigration and Naturalization Service (INS) are contained in a Memorandum of Agreement and an Inter-Agency Cost Reimbursable Agreement dated October 1, 1986, and signed by the Acting Director, Community Relations Service; the Assistant Commissioner, Detention and Deportation, Immigration and Naturalization Service and the Director, Refugee Health Affairs, United States Public Health Service.

Legislative authority for the Community Relations Service, Cuban/Haitian Entrant Minors Program is contained in Title V, section 501(c) of Pub. L. 96–422 (The Refugee Education Assistance of 1980.)

Available Funds

Approximately $400,000 will be available for this Cooperative Agreement on a fiscal year basis. This estimate does not bind the Community Relations Service or the Immigration and Naturalization Service to any specific level of funding. This figure is only intended to serve as an estimate of the total amount of funding which could potentially be available during any specific fiscal year.

Future fiscal year funding for this Cooperative Agreement is contingent upon need and the availabilty of Federal appropriations. If adequate funds are available, the Action Director, Community Relations Service, and the Assistant Commissioner, Immigration and Naturalization Service anticipate continuation of this program.

CRS Cooperative Agreements normally do not exceed a 36 month program performance period. Funding is for 12-month budget periods.

Eligible Applicants

Non-profit organizations incorporated under state law which have demonstrated child welfare, social service or related experience and are appropriately licensed or can expeditiously meet applicable state licensing requirements for the provision of shelter care, foster care, group care and other related child welfare services are eligible to apply.

For-profit organiations, incorporated under State law, which have demonstrated child welfare, social service or related experience and are appropriately licensed or can expeditiously meet applicable state licensing requirements for the provision of shelter care, foster care, group care and other related child welfare services; and, which can clearly demonstrate that only actual costs, and not profits, fees, or other elements above cost have been budgeted, are also eligible to apply.

Eligible Client Population

Under the terms of this announcement, the eligible client population consists of alien minors.

Definition of Alien Minor

For the purposes of this Notice, an alien minors is defined as a male or female foreing national, under 18 years of age, who is detained in the custody of the Immigration and Naturalization Service and is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or, has an application for asylum pending with the Immigration and Naturalization Service.

Designated Program Area; Denver, CO

The Shelter Care Program should be located with a twenty-five (25) mile radius of the INS Alien Processing Center, located at: 3568 Peoria Street, Aurora, Colorado 800010.

Technical Assistance Conference

The CRS will hold a public meeting regarding this solictation. Further information regarding the time, date and location will be included in the Proposal Application Package.

SUPPLEMENTARY INFORMATION:

Purpose and Scope

The Community Relations Service Cooperative Agreement Recipient (hereafter referred to as Recipient) shall facilitate the provision of temporary shelter care and other child welfare related services to alien minors, who have been approved for transfer to a Community Relations Service supported Shelter Care Program.

These minors, although released to the physical custody of the Recipient, shall remain in the legal custody of the Immigration and Naturalization Service.

The population level of minors is expected to fluctuate as arrivals and case dispositions occur. Program content shall, therefore, reflect differential planning of services to minors at various stages of adjustment and administrative processing. The population of minors is projected to consist primarily of Mexican nationals, 13–17 years of age. Recipients are expected to be able to serve some minors twelve (12) years of age or younger.

Recipients are expected to facilitate the provision of assistance and services for each minor including, but not limited to: Physical care and maintenance, access to routine and emergency medical care, initial screening, education, recreation, individual and group counseling, access to religious service and other social services.

Other services that are necessary and appropriate for these minors may be provided if the Community Relations Service determines in advance that the service is reasonable and necessary for a particular minor.

The Recipient will develop an appropriate individualized service plan for the care and maintenance of each minor in accordance with his/her needs as determined in the initial screening. In addition, agencies or organizations are required to implement and administer a case management system which tracks and monitors client progress on a regular basis to ensure that each child receives the full range of program services in an integrated and comprehensive manner. Shelter care services shall be provided in accordance with applicable state child welfare statutes and generally accepted child welfare standards, practices, principles and procedures.

Service delivery is expected to be accomplished in a manner which is sensitive to the cultural and complex needs of these minors.

A. Program Design

The applicant must set forth in detail information concerning the following:

1. Organization/Agency Capability

A comprehensive overview of the applicant agency, agency qualifications and agency history, including philosophy, goals and history of experience with respect to the provision of child welfare or related services to minors under 18 years of age.

2. Target Population

A description of the proposed client population including a discussion of program acceptance criteria and estimates of the total number of minors to be served at any one time (capacity) and during any program year.

3. Management Plan

a. A plan for overall fiscal and program management and accountability.

b. A description of the organizational structure and lines of the authority.

c. A comprehensive program staffing plan and information regarding staff qualifications.

d. A comprehensive plan for coordination of activities between the various program components and coordination with other community and governmental agencies.

e. Staff supervisory model.
f. Provisions for staff training.
g. Proposed staff schedule(s).
h. A description of the role(s) and responsibility(ies) of the proposed consultants and the rationale for their use.

4. Individual Client Service Plans

Applicants are expected to describe in detail:
a. The methodology regarding the development of individual client service plans, and
b. The process to ensure that service plans will be periodically reviewed and updated. Identify staff who will have responsibility for the development and updating of the plans.

5. Case Management

Describe in detail the case management system for tracking and monitoring client progress on a regular basis to ensure that each minor receives the full range of program services in an integrated and comprehensive manner. Identify the staff positions responsible for coordinating the implementation and maintenance of the case management system.

6. Structure and Accountability

Applicants must fully describe:
a. The plan for developing and maintaining internal structure, control and accountability through programmatic means.
b. Utilization of daily logs, statistical reports, etc.
c. Other security measures.

B. Client Services

Applicants are required to describe, in a detailed and comprehensive manner, the following services and the methodology for service delivery:
1. Physical Care and Maintenance;
2. Routine and Emergency Medical/Dental Care;
3. Orientation;
4. Individual Counseling;
5. Group Counseling;
6. Acculturation/Adaptation;
7. Education;
8. Recreational, Social and Work Activities;
9. Visitation Procedures;
10. Legal Services;, and
11. Family Reunification Services.

C. Client Records

Applicants must provide descriptive information regarding the development, maintenance and content of individual client case records, including a description of all material/information which will be maintained in these records.

D. Program Records

Applicants are required to set forth comprehensive information regarding the types of program records to be maintained by the program (daily activity logs, records of staff meetings, cash disbursement systems, daily and weekly status of population reports, etc.).

E. Facility

As applicable, applicants are required to set forth in detail the following:
1. A description of the physical structure and the allocation of space for residential and office use;
2. A description of the location of the facility and discussion of the basis for selection;
3. Proof, in the form of a written certification, that the program and facility meet all applicable zoning and child welfare licensing requirements, and;
4. A description of proposed alterations who are needed to meet applicable licensing and security requirements.

F. Program Evaluation

Applicants must set forth a plan for program evaluation including identification of evaluative criteria.

G. Community Support

Applicants must identify those measures the agency will take or has taken, to assure and maintain community receptivity and support and/or reduce community opposition to the program.

H. Budget

Applicants are required to submit a comprehensive line item budget. A narrative explanation for each line item, included in each object class, must accompany the proposed budget.

I. Supportive Addenda Material

Applicants are required to submit the following supporting material as an addendum to the program proposal:

1. Administrative Requirements

A. Agency Administration and Organization

1. Agency organizational *chart* describing the agency as a whole and the organizational relationship of the proposed program to other agency programs;
2. Comprehensive organizational *chart* of the proposed program;
3. Copies of Articles of Incorporation;
4. Proof of IRS status as a non-profit organization, if applicable;
5. List of Officers and Board Members, if applicable;
6. List of professional affiliations and certifications, and;
7. Copy(ies) of applicable State child welfare license(s).

B. Organizational Standards/Policies and Policies Regarding Clients

1. Personnel Handbook and Standards of Conduct;
2. Statement regarding professional and agency liability;
3. Copy of Disciplinary Procedures;
4. Copy of Agency policy regarding the confidentiality
5. Discussion of the method to be used to inform clients of program rules, regulations and policies, including the confidentiality of client information;
6. Copy of Grievance Policy and Procedures, and;
7. Fire and earthquake evacuation procedures, as applicable.

C. Staff

1. Job/Position Descriptions and resumes (if individuals have been identified for certain positions) for all personnel to be hired for the program including documented evidence of the availability of bi-lingual and culturally sensitive personnel, and;
2. Resumes and qualifications of program consultants.

D. Community Support of the Program

1. Letters of program support from local political representatives, social service agencies, etc. Letters should reflect writers' awareness of program's intent, potential Federal funding source and location of the program. Letters should also contain a recommendation or comment regarding the proposed program;
2. A listing of service providers to whom clients will be referred, including name, address and description of service(s) to be provided, and;
3. A listing of voluntary and/or donated resources, including letters of intent from the agency or entity providing the resources, if applicable.

E. Implementation Plan

A plan for program implementation including time-lines regarding significant milestones.

2. Finance

(a) A copy of the most recent agency/organization audit.
(b) A description of the agency/organization Financial Management System.
(c) A listing of other Federal, State, local or foundation grants, cooperative agreements or contracts, etc., being administered by the applicant. This

material should include information regarding the funding source(s): grant, cooperative agreements or contract number; level of financial support; purpose of award; grant, cooperative agreement or contract performance period; and name, address and telephone number of grant, cooperative agreement and/or contract officer (Federal, State or local).

(d) Subrecipients and/or Subcontractors

1. Identify all proposed services which are to be awarded to subrecipients/subcontractors;

2. Provide relevant background material regarding the proposed subrecipient(s)/subcontractor(s), and;

3. Provide letters from the proposed subrecipient(s)/subcontractor(s) indicating their commitment and the specific services to be provided.

J. Screening Criteria

CRS will screen all applications submitted pursuant to this Notice. Screening shall be done to determine whether an application is sufficiently complete to warrant consideration and review by the CRS Review Panel. An application may be rejected if:

1. The application is from an ineligible applicant;

2. The application is received after the closing date;

3. The application omits:

a. Documented written evidence of community support for the program;

b. A comprehensive line-item budget with appropriate descriptive narrative, and;

c. A copy of the latest financial audit of the applicant.

K. Criteria For Evaluating Applications

Applications will be competitively reviewed, evaluated, rated and numerically ranked according to the following weighted criteria:

1. The degree to which the entire proposed plan for developing, implementing and administering a shelter care program is clear, succinct, integrated, efficient, cost effective and likely to achieve program objectives. (15 points)

2. The quality of the applicant's program management and staffing plans as demonstrated by:

- The adequacy of the plan for program management and the plan for coordination between the components of the program.
- The adequacy of the plan for coordination with community and governmental agencies.
- The adequacy of the qualifications of the applicant organization and the extent to which this organization has a demonstrated record as a provider of child welfare of other social services.
- The extent to which the applicant has a demonstrated capacity for effective fiscal management and accountability.
- The extent to which subrecipient(s)/subcontractor(s) have a demonstrated capacity for effective fiscal and program management and accountability.
- The adequacy of the plans for staff supervision and intra-program communication.
- The adequacy of the staffing plans in terms of the relationships between the proposed functions and responsibilities of the staff in the program, and the education and relevant experience required for the position.
- Clear organizational charts delineating organizational relationships and levels of authority, including the identification of the staff position accountable for the overall management, direction and progress of the program. (20 points)

3. *Program Services.*—The applicant's response to the required program services, including a description of program resources which demonstrates:

- The capacity of the program to offer comprehensive, integrated and differential services which meet the needs of the clients.
- Utilization of resources in a manner which enhances program control, structure and accountability.
- Provision of services in a manner which promotes and fosters cultural identification and mutual support.
- Sensitivity to the issues of culture, race, ethnicity and native language. (20 points)

4. The degree to which the applicant provides effective strategies of programmatic control, predictability and accountability as evidenced by the structure and continuity inherent in the program design. (15 points)

5. The adequacy of the plans for:

(a) Developing and updating individual client service plans, and;

(b) The proposed system of case management. (10 points)

6. The reasonableness of the proposed budget and budget narrative, in relation to proposed program activities. (10 points)

7. The plan for program evaluation, including the methodology and criteria for evaluating the program. (5 points)

8. The degree to which the application has provided written documented evidence of community support and acceptance of the program. (5 points)

L. Application Request and Submission

1. Eligible applicants may request a Proposal Application Package from the United States Department of Justice, Community Relations Service, Suite 330, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815; Attention: Cynthia Bowie, Senior Grants Management Specialist.

Proposal Application Packages may also be obtained by contacting the Community Relations Service at (301) 492–5818 or 1–800–424–9304.

2. Applicants must submit a signed original and two (2) copies of the proposal and supporting documentation to the United States Department of Justice, Community Relations, Suite 330, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815; Attention: Cynthia Bowie, Senior Grants Management Specialist.

Applications postmarked on or before the closing date shall be considered as timely applications.

An application that is hand-delivered must be received by 5:00 p.m. Eastern Daylight Time on the closing date. An application that is hand-delivered must be taken to the United States Department of Justice, Communmity Relations Service, Suite 330, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

The Grants Management Office will accept hand-delivered applications between 9:00 a.m. and 5:00 p.m., Eastern Daylight Time daily, except Saturdays, Sundays and Federal holidays.

Dated: August 10, 1987.

Wallace P. Warfield,

Acting Director, Community Relations Service

Catalog of Federal Domestic Assistance Number: 16.201

Intergovernmental Review

Application Requirements

Pursuant to Executive Order 12372, *Intergovernmental Review of Federal Programs*, all States have the option of designing procedures for review on Federally assisted programs.

Each applicant is required to notify each State in which it is proposing activities under this announcement and to comply with the State's established review procedures. This may be done by contacting the applicable State Single Point of Contact (SPOC).

State Requirements

Comments and recommendations relative to applications submitted under this solicitation should be mailed no later than 30 days after the date of

publication, addressed to: Richard Gutierrez, Coordinator, Immigration and Refugee Affairs, Community Relations Service, Suite 330, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

[FR Doc. 87-18456 Filed 8-12-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration; Sigma Chemical Co.

By Notice dated April 21, 1987, and published in the **Federal Register** on April 27, 1987; (52 FR 13883), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocyn (7438)	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100)	II
Methamphetamine, its salts, insomers and salts of its isomers (1105)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (1950)	II
Benzoylecgonine (9180)	II
Morphine-3-Glucuronide (9329)	II

Applied Science Laboratories, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, filed an objection, dated May 4, 1987, with the Deputy Assistant Administrator, Office of Diversion Control, in response to the application of Sigma Chemical Company. Applied Science Laboratories took exception to the registration of Sigma Chemical Company as an importer of lysergic acid diethylamide, mescaline, phencyclidine and benzoylecgonine. Applied Science Laboratories indicated that it is a licensed importer of these compounds as well as other materials indentified in the applicant's petition and that it is willing to negotiate with said applicant for the purpose of providing these materials in the quantities requested. Applied Science Laboratories did not request a hearing.

Sigma Chemical Comany produces a maximum of 25 grams of controlled substances to be used in research and analytical studies as standards. It has been previously registered as an importer of lysergic acid diethylamide, mescaline, phencyclidine and benzoylecgonine. There has been no substantial increase in the quota because of this registration.

The Deputy Assistant Administrator therefore finds that the registration of Sigma Chemical Company as an importer of lysergic acid diethylamide, mescaline, phencyclidine and benzoylecgonine is consistent with the public interest because Sigma Chemical Company imports these controlled substances for research and analytical purposes in small quantities and this activity does not affect the commercial market of these controlled substances.

The Deputy Assistant Administrator hereby orders that the application submitted by Sigma Chemical Company for registration as an importer of the basic classes of controlled substances listed above is granted.

Dated August 7, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-18494 Filed 8-12-87; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Withdrawal; Sigma Chemical Co.

On April 27, 1987, the Drug Enforcement Administration (DEA) published a Notice of Application in the **Federal Register** (Vol. 52, No. 80, pg. 13883) stating that Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, had submitted an application for registration as an importer of the basic classes of controlled substances listed:

Drug	Schedule
3, 4-methylenedioxymethamphetamine (MDMA) (7405)	I
Heroin (9200)	I

On June 11, 1987, the DEA was advised that Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, wishes to withdraw its application for registration as an importer of 3, 4-methylenedioxymethamphetamine (MDMA) (7405) and Heroin (9200).

The application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: August 7, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-18495 Filed 8-12-87; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Periodic Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 9, No. 4).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on Feburary 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties, special nuclear, and byproduct materials are abnormal occurrences.

The report to Congress is for the fourth calendar quarter of 1986. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there were three abnormal occurrences at the nuclear power plants licensed to operate. The events were (1) the loss of low pressure service water systems at Oconee, (2) degraded safety systems due to incorrect torque switch settings on Rotork motor operators at Catawba and McGuire Nuclear Stations, and (3) a secondary system pipe bread resulting in the death of four persons at Surry Unit 2. There were six abnormal occurrences at the other NRC lincensees. One involved release of americium-241 inside a waste storage building at Wright-Patterson Air Force Base; three involved medical misadministrations, one therapeutic and two diagnostic; one involved a suspension of license because unauthorized and unqualified people were used to service telethelrapy and radiography units; and one involved an immediately effective order modifying a

license and an order to show cause to an industrial radiography company because of false statements made to, and information withheld from, the NRC. There were no abnormal occurrences reported by the Agreement States.

The report also contains information updating some previously reported abnormal occurrences.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW., Washington, DC or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies or microfiche of NUREG-0090, Vol. No. 4 (or any of the previous reports in this series), may be pruchased by calling (202) 275–2060 or (202) 275–2171, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 200012–7982. A year's subscription to the NUREG-0090 series publication, which consists of four issues, is also available. Documents may be purchased by check, money order, Visa, Mastercard, or charged to a GPO Deposit Account.

Copies of the report may also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161–0004

Dated at Washington, DC this 6th day of August 1987.

For the Nuclear Regulatory Commission.

Samuel Q. Chilk,

Secretary of the Commission.

[FR Doc. 87–18524 Filed 8–12–87; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: New.

2. The title of the information collection: Survey of State and Tribal Emergency Response Capabilities to Respond to Radiological Transportation Incidents.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required or asked to report: State governments and selected Indian Tribes.

6. An estimate of the number of responses: 66.

7. An estimate of the total number of hours needed to complete the requirement or request: 71 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 apples: Not applicable.

9. *Abstract:* The NRC will sponsor a survey of State and Tribal emergency response capabilities, training programs and response plans for transportation incidents involving radioactive materials, in order to determine what assistance the Federal government may be called upon to provide in such incidents.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Vartkes L. Broussalian, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated: at Bethesda, Maryland, this 8th day of August 1987.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 87–18501 Filed 8–12–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Regional and I&E Programs; Meeting

The ACRS Subcommittee on Regional and I&E Programs will hold a meeting on August 28, 1987, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, CA.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, August 28, 1987—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review the activities under the control of the Region V Office.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its conultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 7, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87–18525 Filed 8–12–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24777; File No. SR–MSE–87–10]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Waiver of All Trades Executed in NASDAQ/NMS Stocks on the MSE Through December 31, 1987

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1987, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Midwest Stock Exchange, Incorporated (MSE) has determined to extend the waiver of the application of its transaction fees in respect to trading in the 25 NASDAQ/NMS issues traded on the MSE pursuant to the granting of unlisted trading privileges. Such waiver of fees, which became effective upon the start-up of trading of the issues will continue until December 31, 1987.

II. Self-Regulatory Organizaton's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSE's transaction fees will be waived for all trades executed in NASDAQ/NMS stocks on the MSE through December 31, 1987. The waiver of such fees has facilitated the start-up of the pilot program in the trading of these issues and its continuation will allow MSE to be more competitive with the over-the-counter market.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges. The suspension of the transaction fees is temporary and will allow the MSE to examine the pilot program and review its pricing schedule as it relates to transactions in NASDAQ/NMS securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be sutmitted by September 3, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: August 6, 1987.

[FR Doc. 87–18475 Filed 8–12–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24781; File No. SR–OCC–86–14]

Self-Regulatory Organizations; Options Clearing Corp.; Order Approving Proposed Rule Change

On July 14, 1986, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under section 19(b) of the Securities Exchange Act of 1934 ("Act"). The proposal would enable a clearing member of OCC that is also a clearing member of the Intermarket Clearing Corporation ("ICC") [1] ("Joint Clearing Member") to combine, *i.e.*, "cross-net," its OCC exercise and assignment settlement obligations in foreign currency options ("OCC obligations") with its settlement obligations in futures contracts on the same foreign currency cleared by ICC ("ICC obligations").[2] Notice of the proposal appeared in the **Federal Register** on July 28, 1986.[3] No comments were received. On May 11, 1987, and June 15, 1987, OCC filed amendments to the proposal. This order approves the amended proposal.

I. Description of the Proposal

The proposal amends OCC's By-Laws and Rules to provide for cross-netting with ICC of Joint Clearing Member's foreign currency options exercise and assignment and futures settlement obligations.[4] The proposal also sets forth an agreement ("Mutual Agency Agreement" or "Agreement") between OCC and ICC that describes the rights and obligations of each clearing organization.

Under the proposal, a Joint Clearing Member and designate either ICC or OCC as its "Designated Clearing Organization" and would settle cross-netted obligations with that clearing organization. As discussed in detail below, the Designated Clearing Organization would perform its ordinary clearance and settlement activities, and also would act as agent for the other clearing organization in settling cross-netted obligations.

The proposal also amends OCC Rules [5] dealing with foreign currency

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[1] The Commission approved the establishment of ICC in Securities Exchange Act Release No. 21706 (February 4, 1985), 50 FR 53431. ICC was formed by the OCC as a wholly owned subsidiary to clear transactions in contracts for the sale of commodity futures and options. ICC maintains it clearing fund contributions, member margin deposits, and its books and records separate from those of OCC. OCC, however, acts as facilities manager for ICC, providing services and facilities needed for ICC's clearing operation.

[2] ICC has filed with the Commission for registration as a clearing agency under sections 17A and 19 of the Act. ICC currently is subject to Commodity Futures Trading Commission ("CFTC") jurisdiction and has filed a corresponding rule change with the CFTC.

[3] Securities Exchange Act Release No. 23452 (July 22, 1986), 51 FR 26965.

[4] OCC states that cross-netting currently would be available for foreign currency futures traded on the Philadelphia Board of Trade and foreign currency options traded on the Chicago Board Options Exchange and the Philadelphia Stock Exchange. Any expansion of the proposal to provide cross-netting for products other than foreign currency products would be filed by OCC with the Commission under section 19 (b) of the Act.

[5] *See* OCC Rule 1605, 1606.

options exercises and assignments generally. The proposal provides that for OCC obligations settling on a date that is also a delivery date for ICC obligations, [6] a Joint Clearing Member could elect to have its OCC obligations in a particular foreign currency combined with its ICC obligations in the same foreign currency to arrive at a net deliver/receive or collect/pay obligation in that foreign currency against U.S. dollars.

Currently, on the business day after a foreign currency option exercise notice is tendered to OCC, OCC determines for each clearing member account the number of exercised and assigned option contracts for which OCC has received exercise notices. OCC then nets the settlement obligations of each member to the extent that member is both a deliverer and a receiver for foreign currency option contracts of the same type, covering the same unit of trading of the same foreign currency, and having the same exercise price.[7] The settlement obligations of each member are further netted to the extent that member would be both a deliverer and receiver of that foreign currency regardless of type of option, unit of trading, and exercise price.[8] The proposal would like this netting process one step further, netting OCC obligations against a Joint Clearing Member's ICC settlement obligations in the same foreign currency.

Under the proposal, a Joint Clearing Member can choose to participate in the cross-netting program by submitting to OCC and ICC a written notice of election designating either OCC or ICC to act as its Designated Clearing Organization for settlement purposes.[9] In making this election, the Joint Clearing Member agrees to comply with the Designated Clearing Organization's margin rules applicable to settlement obligations, *i.e.*, it must deposit appropriate margin for settlements subject to cross-netting.[10] The proposal also clarifies that cross-netted settlement obligations are subject to all applicable rules of the Designated Clearing Organization.[11]

The proposal also outlines OCC's rights and obligations with its members in the case of ICC's default. The proposal generally provides that if ICC, as Designated Clearing Organization, fails to settle with a Joint Clearing Member, OCC would remain obligated to settle with that member only the OCC obligation component of the failed cross-netted settlement. OCC would not be obligated to settle the ICC obligation component of the settlement.

The proposal includes a Mutual Agency Agreement between OCC and ICC. The Agreement provides, among other things, that ICC and OCC each will act as agent for the other to effect cross-netting and settlement under the proposed rule change. For settlement purposes, each clearing organization will agree to deliver to, or pay, the other clearing organization the net amount of each foreign currency, or the net U.S. dollar settlement amount, that would have been delivered to, or paid to, the Joint Clearing Member by the clearing organization as if no cross-netting had occurred.[12] Thus, OCC and ICC settle cross-netted obligations between themselves and are placed in the same position as if no cross-netting had occurred.

The Agreement further provides, in effect, that if a Joint Clearing Member defaults on its obligations to either clearing organization before that clearing organization has released the margin it holds to secure any of the Joint Clearing Member's settlement obligations, any cross-netting would be revoked, *i.e.*, unwound. If default occurs after cross-netting has been performed and margin has been released, the Agreement provides that any loss suffered by the Designated Clearing Organization relating to foreign currency settlements effected as agent for the other would be for the account of the other clearing organization and would be paid by the other clearing organization upon demand by the Designated Clearing Organization. If a Joint Clearing Member is suspended by the Designated Clearing Organization, the Designated Clearing Organization first must apply the suspended member's margin assets to the member's outstanding obligations to reduce the other clearing organization's liability. Only the appropriate portion of the excess of the loss over the applied margin assets would be charged to the other clearing organization.[13] Under those circumstances, the other clearing organization would retain its claim against the Joint Clearing Member and could use the suspended member's clearing fund contribution to satisfy that claim as if no cross-netting had occurred.

Under the Agreement, OCC and ICC agree to indemnify each other against losses from any claim or action against either in its capacity as Designated Clearing Organization performing clearing activities on behalf of the other. Finally, OCC and ICC agree that the Agreement will remain in force for one year and will be automatically renewable thereafter. The Agreement, however, also provides that each party can terminate the Agreement by: (1) Giving written notice 90 days prior to the expiration of a one-year period; (2) notifying the other in writing 30 days after an uncured default where the aggrieved party has given notice of the default to the defaulting party; or (3) notifying the other in writing where the other has been abjudicated insolvent or bankrupt, has had a receiver appointed or has executed an assignment for the benefit of creditors.

A. Amendments to the Proposal

On May 11, 1987, and June 15, 1987, OCC amended the proposal. Those amendments primarily relate to OCC proposals that became effective after the filing of the instant proposal and conform this proposal to those intervening developments.[14] OCC also

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[6] The term "delivery date," as used for a foreign currency futures contract, means the date on which final settlement is made. OCC represents in its filings that delivery dates for foreign currency futures contracts ordinarily coincide with exercise settlement dates for foreign currency options exercised either on expiration date or on the Thursday preceding expiration date. OCC also represents that settlement dates coincide once each month and that cross-netting could be performed only one day each month.

[7] OCC performs the netting in the following sequences: (1) Within each account, (2) customers' account against Market-Maker's account, (3) customers' account against firm account, and (4) Marker-Maker's account against firm account. *See* OCC Rule 1605(a). Certain OCC member settlements representing customer activity may be settled separately on a gross basis under OCC Rule 1606A to enable those OCC members' customers directly to coordinate settlement with OCC clearing banks. *See*, Securities Exchange Act Release No. 24332 (April 13, 1987), 52 FR 12995.

[8] Again, OCC nets in the same sequence, but at this point, puts are netted against calls.

[9] OCC and ICC will specify the form of written election required. Such election can be revoked by the Joint Clearing Member with 10 days written notice to both OCC and ICC.

[10] OCC represents that margin levels for cross-netted settlements would be identical at OCC and ICC. Thus, the Joint Clearing Member's choice of ICC or OCC as its Designated Clearing Organization would not affect its margin obligations for cross-netting settlements.

[11] Thus, if a Joint Clearing Member experiences operational or financial difficulty or defaults in its obligations to its Designated Clearing Organization, that Organization will be able to take steps under its rules to protect itself and its members from financial risk, *e.g.*, increase surveillance, require additional margin, take disciplinary action, or suspend the member and liquidate positions.

[12] Both OCC and ICC maintain settlement accounts at the same clearing bank. Net settlement would occur between the two by book-entry movements in those accounts. OCC and ICC would not charge each other for these movements.

[13] OCC explains that any such loss would be allocated between OCC and ICC based on the percentage that the loss on securities options settlements and futures settlements respectively bear to the total loss.

[14] *See* Securities Exchange Act Release Nos. 23888 (December 12, 1986), 51 FR 45828; 24332 (April

Continued

has amended the proposal to require Joint Clearing Members to submit subordination agreements for non-public customers whose positions are carried in proprietary accounts. As discussed below, OCC believes that those changes should eliminate a potential conflict between Commodity Futures Trading Commission regulations and other federal laws.

The subordination agreements are designed to ensure that non-public customers [15] of Joint Clearing Members would be excluded from the definitions of customer under the Securities Investor Protection Act [16] and the U.S. Bankruptcy Code.[17] By clarifying that such securities positions do not constitute "customer property," the amendments are designed to eliminate any potential uncertainty as to how securities positions would be handled during bankruptcy proceedings involving the Joint Clearing Member.

II. OCC's Rationale for the Proposal

OCC believes that the proposal is consistent with section 17A of the Act because cross-netting options exercise and assignment and futures settlement obligations would reduce foreign currency settlements, thereby faciliting the prompt and accurate clearance and settlement of securities transactions. Moreover, OCC believes that the proposal is consistent with its obligation to safeguard securities and funds because the rights and obligations of OCC and ICC, with respect to the contracts that they clear, generally remain unaffected by the cross-netting procedures.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act and, in particular, section 17A, and therefore is approving it. As discussed below, the Commission agrees with OCC that the proposal should promote the prompt and accurate clearance and settlement of options transactions and, at the same time, should ensure the safeguarding of securities and funds in OCC's control or for which it is responsible.

The Commission believes that the key to efficient settlement among brokers and dealers is the netting process performed by clearing organizations. Congress recognized the significance of netting by defining "clearing agency," in pertinent part, as "any person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities." [18] Congress clearly anticipated clearance and settlement systems that consolidate trade processing, and, in section 17A(a), directed the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions.

The Commission recognizes the efficiencies that can result from clearance and settlement systems that consolidate trade processing. For corporate debt and equity securities, Continuous Net Settlement ("CNS") systems have long been employed by clearing corporations to centralize and reduce the number of securities transaction settlements and the actual exchange of securities certificates. CNS summarizes and nets together each participant's transactions in each security with any previous open positions to create a single long or a short position. CNS then provides for automatic book-entry delivery or receipt of the securities at a securities depository and net money settlement at the clearing corporation.

The Commission notes that OCC's proposal is unique in that it represents the first securities-futures netting system. Under the proposal, a Joint Clearing Member's foreign currency option exercise and assignment settlement obligations could be net against its futures settlement obligations in the same foreign currency. In the Commission's view, inter-market netting of settlement obligations and the proposal's system to implement it are consistent with the Act.

The Commission believes that the proposed netting process would result in significantly fewer actual foreign currency and U.S. dollar settlements and thereby facilitate the prompt and accurate clearance and settlement of securities transactions. For example, assume that a Joint Clearance Member has a settlement obligation to deliver to ICC 10,000,000 deutsche marks at a cost of $5,000,000 U.S., and an obligation to receive from OCC, as a result of an exercised option contract, 10,000,000 deutsche marks against payment of $6,000,000 U.S. Cross-netting the ICC obligations and OCC obligations would negate any actual delivery of deutsche marks through the system because the number would be obligated to both receive and deliver the same amount of foreign currency. Under the proposal, the Joint Clearing Member would have a net obligation to pay its Designated Clearing Organization $1,000,000 U.S., representing the difference between the obligation to pay for the receipt from OCC and the payment from ICC.

Moreover, reducing the number and volume of currency transfers should significantly reduce transaction costs to firms engaged in both the securities options and commodities futures businesses. In the example above, absent netting of OCC and ICC settlement obligations, the delivery costs for a Joint Clearing Member would include $135 on the ICC settlement, consisting of a $100 settlement bank charge for a delivery into ICC and a $35 ICC transaction cost. For the OCC settlement, the Joint Clearing Member also would be charged $135 bank and transaction fees, and, in addition, the member would be required to make its U.S. dollar payment available two days prior to receipt of its foreign currency, losing partial interest on those funds. Thus, the total cost of settling separately the OCC and ICC obligations would be $270 plus an interest cost. Under the proposal, no charges would be incurred, nor would the number lose interest on its money, because the Designated Clearing Organization would draft the member's settlement account at settlement time.[19] Incidental operating costs, *e.g.*, personnel, likely would be reduced as well.

The Commission also believes that the proposal is consistent with OCC's obligation under the Act to safeguard securities and funds in its possession or for which it is responsible. The Commission believes that the proposal is designed to guard against any risks posed to OCC by cross-netting. For example, under the terms of OCC's

13, 1987), 52 FR 12995; 24398 (April 28, 1987), 52 FR 16473.

[15] Under CFTC regulations applicable to bankruptcy proceedings, certain non-public customers of a Joint Clearing Member could be treated as customers under bankruptcy laws. *See* 17 CFR 190.08; and 11 U.S.C. 741 *et seq.* Those non-public customers could include partners, officers, and owners of a Joint Clearing Member whose positions are carried in the member's proprietary account.

[16] *See* 15 U.S.C. 78 aaa *et seq.* ("SIPA").

[17] *See* 11 U.S.C. 741 *et seq.*

[18] *See* section 2(a)(23) of the Act.

[19] The cost savings would be even more substantial if a Joint Clearing Member with these same commitments uses OCC's "delivery versus payment" system. Under that system, in addition to the $135 bank and transaction fees, Bank of America imposes a charge of $50 per million U.S. dollar equivalent, or $243.50 (at .487 deutsche marks to U.S. dollar) on the delivery side. Additionally, on the receiving side, the member would be charged $135 bank and transactions fees plus $300 representing the $50 per million on the $6,000,000 cost of the deutsche marks, for a total of $813.50.

proposal and the Mutual Agency Agreement, if a Joint Clearing Member defaults on its obligations to either clearing organization prior to the time that such clearing organization has recalculated margin for settlement purposes, any cross-netting of the Joint Clearing Member's obligations would be unwound, and each clearing organization would have access to the margin it holds for that member plus the full range of remedies set forth in its rules. Under those circumstances, each clearing organization would be placed in the same position it would be in without cross-netting.[20]

If a Joint Clearing Member defaults after the cross-netting has occurred and margin has been calculated and collected by the Designed Clearing Organization, any loss suffered by the Designated Clearing Organization on foreign currency settlements effected as agent for the other clearing organization would be for the account of the other clearing organization and would be paid by the other clearing organization upon demand by the Designated Clearing Organization. In calculating the amount of such loss, the Designated Organization must first apply to the loss the margin held by it for the Joint Clearing Member's obligations, and only the appropriate portion of the excess of such loss over the margin so applied would be charged to the other clearing organization. The other clearing organization would retain a claim against the Joint Clearing Member for any losses, and the clearing fund of the other clearing organization would be available as if no cross-netting had occurred.

In the case of member default after cross-netting has been performed, the Designated Clearing Organization is in much the same position it would be in without cross-netting. The Designated Clearing Organization would control the defaulting member's margin and clearing fund deposit. It would marshal and apply those assets to the default under its rules. The other clearing organization would control only the defaulting member's clearing fund deposit, but the Designated Clearing Organization would be acting as agent for it in applying margin to the default.[21] Thus, although the other clearing organization is not in the same position it would be in without cross-netting because it would not hold margin for cross-netted settlements, the Designated Clearing Organization would calculate and apply margin to the default as agent for the other organization.

Moreover, the Commission notes that in some respects OCC's risk may be reduced under the proposed rule change. By reducing the number of settlements, OCC reduces the risk associated with numerous transfers of foreign currencies and U.S. dollars. Each transfer of currency to OCC carries the risk that a particular payment may not be made, or that a payment made to an OCC clearing bank may be unavailable because of bank insolvency. The Commission believes that a reduction in the number of currency transfers should reduce those risks.

The Commission notes the amendments to the proposal to require Joint Clearing Members to obtain subordination agreements from certain non-public customers. The Commission believes those amendments appropriately are designed to eliminate potential uncertainties that could result in bankruptcy proceedings involving a Joint Clearing Member. The Commission believes that the execution of a subordination agreement by a non-public customer whose positions are cleared through a proprietary account of the Joint Clearing Member should help to clarify that the non-public customers' positions do not constitute customer property under SIPA and applicable provisions of the bankruptcy laws.

Finally, the Commission notes that ICC's rules regarding the clearance and settlement of foreign currency transactions and handling of funds in its possession or control are substantially identical to the corresponding rules of OCC. The Commission on several occasions has recognized that OCC's systems of financial safeguards and foreign currency options settlements are consistent with the Act.[22]

IV. Conclusion

Based on the foregoing, the Commission finds that the amended proposal (File No. SR–OCC–86–14) is consistent with the Act, and, in particular, with Section 17A.

It is therefore ordered, pursuant to section 19(b) of the Act, that OCC's propsed rule change (as amended) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1987

Jonathan G. Katz,

Secretary.

[FR Doc. 87–18476 Filed 8–12–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15905; (812–6664)]

Application; Bando McGlockin Capital Corp.

August 3, 1987

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicant: Bando McGlocklin Capital Corporation ("Applicant").

Relevant 1940 Act Sections: Exemption requested under sections 6(c), 17(d) and 23(c)(3) of the Act and Rule 17d–1 from the provisions of sections 17(d), 18(d), and 23(a), (b) and (c).

Summary of Application: Applicant, a licensed small business investment company, seeks an exemptive order to permit it to offer its employees deferred equity compensation in the form of stock options.

Filling Date: The appliation was filed on March 27, 1987 and amended on May 21, 1987.

Hearing or Notification of Hearing: If no hearing ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 27, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant: 13555 Bishops Court, Brookfield, Wisconsin 53005.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272–3046, or H.R. Hallock, Jr., Special

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[20] Under OCC's margin rules, margin is calculated and collected on members' open positions. The proposal would not change OCC or ICC margin on open positions prior to settlement. After open positions are exercised and assigned, OCC calculates and collects margin based on members' settlement obligations. Under the proposal, settlement margin would be based on a Joint Clearing Member's cross-netting settlement obligation and would be calculated and collected by the Designated Clearing Organization. As indicated above, settlement margins at OCC and ICC would be identical.

[21] Each clearing organization also would be authorized to apply margin on open positions and liquidate securities or futures positions, respectively, held by the defaulting member and apply proceeds to the default under its rules.

[22] *See* Securities Exchange Act Release Nos. 19274 (November 24, 1982), 47 FR 54303; 20404 (November 21, 1983), 48 FR 53621.

Counsel, (202) 272–3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representation

1. Applicant is a registered closed-end, diversified management investment company, licensed as a small business investment company under the Small Business Investment Act of 1958.

2. Applicant has outstanding 2,044,253 shares of Common Stock. Prior to May 13, 1987, there was no public market for Applicant's Common Stock. On May 13, 1987, Applicant sold 750,000 shares of Common Stock in an initial public offering. Since May 13, 1987, Applicant's Common Stock has been quoted on NASDAQ.

3. To induce key employees of Applicant to remain in the employ of Applicant and to increase their incentive and personal interest in Applicant's welfare, Applicant's Board of Directors and shareholders on February 17, 1987 approved Applicant's 1987 Incentive Stock Option Plan ("Plan"). The adoption of the Plan was made in anticipation of the initial public offering.

4. The Plan will be administered by the Compensation Committee of Applicant's Board of Directors, none of whose members are "interested persons" of Applicant as defined in section 2(a)(19) of the Act. Members of the Compensation Committe are not eligible to receive options under the Plan.

5. All of the options to be granted pursuant to the Plan are intended to be incentive stock options within the meaning of section 422A of the Internal Revenue Code ("Code"). As incentive stock options, the following restrictions are applicable to the Plan:

A. The Plan must state the aggregate number of shares which may be issued pursuant to the exercise of options and the class of employees eligible to receive options and must further be approved by the shareholders. The Plan provides for the grant of options to purchase 150,000 shares of Applicant's Common Stock. Only key employees of Applicant are eligible to receive options. Applicant currently has three key employees (its three executive officers) and it is anticipated that each of these employees will be granted options to purchase 50,000 shares of Applicant's Common Stock. The Plan provides that if an option granted under the Plan expires or is terminated unexercised, the shares of Common Stock covered will again be available for the grant of additional options under the Plan. Notwithstanding the foregoing, not more than 50,000 shares may be issued to one participant pursuant to the exercise of options granted under the Plan.

B. All options must be granted within 10 years of the date the Plan was adopted. It is anticipated that all of the options will be granted upon receipt of the requested order.

C. Options may not be exercised after the expiration of 10 years from the date the option is granted.

D. The exercise price of the options may not be less than the fair market value of the underlying stock on the date of grant. In accordance therewith, the last quoted sale price on the date of grant will be considered the fair market value or if there is no such date, the mean between the closing bid and asked quotations will be considered to be the fair market value.

E. Options may not be transferable by the optionee (otherwise than by will or the laws of descent and distribution) and may be exercised during the lifetime of the optionee, only by the optionee.

F. Options may not be granted to persons owing more than 10% of the voting power of the outstanding shares of Applicant's Common Stock at the time the option is granted.

G. The aggregate fair market value (determined at the time the option is granted) of the stock with respect to which options are exercisable for the first time by an individual in any calendar year may not exceed $100,000. Moreover, the Plan provides for a four year vesting schedule permitting only 25% of the options to be exercised before one year has elapsed since the date of granting and providing for proportional increases in subsequent years.

H. The Plan does not provide for the grant of stock appreciation rights. However, the Plan does permit the exercise price of an option to be paid in cash or by tendering previously acquired shares of stock, valued at the fair market value. In placing a fair market value on previously acquired shares of Applicant's Common Stock, Applicant will utilize the same standards as are used in determining the fair market value at the time of the grant of the option.

6. Applicant is unable to rely on the existing Commission order permitting SBICs to issue stock options to their employees (Investment Company Act Release 6523, May 14, 1971) or on Rule 17d–1(d) under the Act because both specifically provide that the options granted must be qualified stock options under section 422 of the Code and must conform to the requirements of 13 CFR 805(b) adopted by the Small Business Administration. Qualified stock options were eliminated in 1976 and 13 CFR 805(b) was significantly amended (as well as renumbered 13 CFR 705(b)) in 1982. As a result of these developments, incentive stock options to be issued under the Plan (which were authorized by the Tax Reform Act of 1986) and qualified stock options will have some minor differences which are fully described in the application. However, the incentive stock options to be issued under the Plan will be substantially the same as the earlier qualified stock options. The conditions limiting issuance of incentive stock options under the Plan are in many respects stricter than those contained in the Act for business development companies ("BDCs") desiring to issue stock options to their employees.

7. Applicant competes primarily with banks and other entities which are not investment companies registered under the Act. These organizations are able to offer stock options to employees and have an advantage over Applicant in attracting and retaining highly qualified personnel. In order for Applicant to compete on a more equal basis with such organizations, it has to have personnel as competent as such organizations, and in order to attract and retain such personnel Applicant must be able to offer comparable compensation packages.

8. Applicant's three executive officers not only have the responsibility for making Applicant's investments but are also responsible for making all executive and operational decisions. As the executive officers of Applicant, their performance directly affects Applicant's performance and the value of Applicant's Common Stock. The performance of Applicant's other employees, a secretary-receiptionist and two assistant loan officers, does not directly affect Applicant's performance. It would be inconsistent with the purposes of the Plan to grant such employees stock options since no matter how competently they performed their duties, their performance would probably not affect the value of Applicant's Common Stock.

Applicant's Legal Conclusions

1. The limitations on the issuance of stock options under the Plan to be made conditions in the requested exemptive order will provide protections to investors against dilution of their pro

rata interests in Applicant that are similar to those the Commission previously found consistent with the purposes and policies of the Act, and even greater than those that Congress imposed on stock options to be issued by business development companies. While a degree of dilution of the interests of existing shareholders may be possible in connection with the issuance or exercise of stock options under the Plan, the impact on shareholders of Applicant will be extremely limited by several factors. First, the Plan was not only approved by Applicant's shareholders, but any options granted under the Plan must be approved by a majority of Applicant's directors who are not "interested persons" of Applicant and who cannot participate in the Plan. Second, because the percentage of shares that can be issued under the Plan will be less than 7½% of the outstanding shares of Applicant's Common Stock, far less dilution could occur under the Plan than from stock options issued by BDCs. In addition, Applicant will conduct a review similar to that required by the order in Investment Company Act Rel. No. 14594 June 2, 1985, as amended on December 23, 1986, in Investment Company Act Rel. No. 15496, if it subsequently grants options, which become available through the expiration or termination of previously granted options prior to their exercise.

2. The limited stock options which will be granted under the Plan will offer no opportunity for a change in control of Applicant or quick sale at a profit. Additionally, the options themselves will not be transferable. Stock options are extensively employed as an element of management compensation as has been recognized by the Commission since 1971. The existence and nature of stock options granted by Applicant will be fully disclosed in accordance with the standards or guidelines adopted by the Financial Accounting Standards Board for operating companies and the requirements of the Commission, and will be neither so extensive nor so complex as to make the financial statements of Applicant or management remuneration more difficult to understand.

3. As an SBIC, all of Applicant's investments (other than investments in idle funds) must be made in small businesses, the securities of which will not be publicly traded. Moreover, substantially all of Applicant's investments in small businesses consist of non-convertible secured loans. Under these circumstances it is difficult to conceive a scenario in which Applicant's portfolio investments could create a short-term artificial increase in Applicant's stock.

4. Applicant's participation with respect to the stock options which are the subject of the application will not be "less advantageous" than that of the grantees. Indeed, insofar as Applicant is concerned, the stock options will not be radically different from the other commonly used forms of employee compensation, such as bonuses, that raise no issue at all under section 17(d) and Rule 17d–1 of the Act.

5. for the foregoing reasons, any adverse impact on investor interests protected by the Act resulting from granting the application will be minimal, and further will be more than outwighed by the benefits to investors that will result from permitting Applicant to compete for top quality personnel on a more equal footing with its competitors. Also, any advantage to the holders of stock options as a result of the ability to choose the time of exercise (within certain limits) or any tax or other benefits the employee may receive from deferred receipt of compensation or from having the amount of compensation depend upon improved performance of Applicant's Common Stock will be more than outweighed by Applicant's enhanced ability to attract and retain highly qualified personnel.

6. Applicant has a profit sharing plan qualified under section 401(a) of the Code that is intended to provide a source of retirement income for employees. In accordance with the requirements of the Employee Retirement Income Security Act of 1974, as amended, ("ERISA") Applicant's profit sharing plan does not discriminate in favor of shareholders, officers and highly compensated employees as to coverage, benefits, contributions or otherwise. Applicant to date has not contributed the maximum amount in any year. The Plan is not a substitute for a profit-sharing plan qualified under section 401(a) as the Plan is intended to provide incentive compensation and does not establish a source of income for an employee's retirement years.

Applicant's Conditions

Applicant agrees that all of the representations made by it in the application may be made conditions of the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–18521 Filed 8–12–87; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Application to Withdraw From Listing and Registration; Hodgson Houses, Inc.

August 6, 1987.

The above name issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw Common Stock, $.01 per share of Hodgson Houses, Inc. from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The issuer's common stock is presently traded on the BSE and the NASDAQ National Market System. The issuer has determined to consolidate all trading of its common stock on the NASDAQ System in order to create a larger and more active trading market for its common stock and therefore has requested to be withdrawn from listing and registration on the BSE.

Any interested person may, on or before August 27, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan Katz,

Secretary.

[FR Doc. 87–18477 Filed 8–12–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[CM–8/1099]

Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on September 3, 1987 in the Board Room of the National Association of Broadcasters, 1771 N Street, NW.,

Washington, DC. The meeting of Study Group 10 will begin at 10:00 a.m.; the meeting of Study Group 11 at 1:30 p.m.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The purpose of the meeting is to discuss preparations for the Interim Meetings of international Study Groups 10 and 11 in the Fall of 1987.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard E. Shrum, State Department, Washington, DC 20520; telephone 202 647-2592.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

Date: July 30, 1987.

[FR Doc. 87-18464 Filed 8-12-87; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1098]

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 9, 1987 in Room 1107, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 10:00 a.m. and is scheduled for the entire day.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International CCITT Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of this meeting is to:

1. Provide a briefing of current CCITT Study Group activities, and plan for upcoming final sessions of their Working Parties and Study Groups. (Request all U.S. chairpersons be in attendance).

2. Initiate preparatory activities for CCITT Plenary Assembly.

3. Initiate preparatory activities for World Administrative Telegraph and Telephone Conference, Melbourne, November 28-December 9, 1988.

4. Initiate preparatory activities for the ITU Plenipotentiary Conference, 23 May-29 June, 1989, Nice, France.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC telephone (202) 653-6102. All attendees must use the C Street entrance to the building.

Date: July 30, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development.

[FR Doc. 87-18465 Filed 8-12-87; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1200]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 10, 1987 at 9:30 a.m. in Room 1107, Department of State, 2201 C Street, NW., Washington, DC.

Study Group A deals with international telecommunications policy and services.

The purpose of the meeting will be

(a) Discussion and approval of Contributions for the meeting of Study Group I.

(b) Discussion and approval of Contributions for the meeting of Study Group III.

(c) Debriefing of the results of the June meeting of Study Group VIII.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 653-6102. All attendees must use the C Street entrance to the building.

Date: August 3, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development, Chairman, U.S. CCITT National Committee.

[FR Doc. 87-18466 Filed 8-12-87; 8:45 am]

BILLING CODE 4710-07-M

Bureau of Consular Affairs

[Public Notice 1022]

Certain Foreign Passports Validity

Hong Kong has entered into an agreement with the Government of the United States whereby Hong Kong Certificates of Identity are recognized as valid for the return of the bearer to Hong Kong for a period of at least six months beyond the expiration date specified in the Certificate of Identity. The entry for Hong Kong appearing in Public Notice 954 of February 26, 1986 regarding extended passport validity is hereby amended to read "Hong Kong (Certificates of Identity and passports)."

This Notice amends Public Notice 954 of February 26, 1986 (51 FR 6853).

Date: August 5, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87-18437 Filed 8-12-87; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 87-054]

Renewal of the Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of Renewal.

SUMMARY: The Secretary of Transportation has approved the renewal of the Lower Mississippi River Waterway Safety Advisory Committee. The purpose of the Committee is to provide local expertise on such matters as communications, surveillance, traffic control, anchorages, and other related topics dealing with waterway safety in the Lower Mississippi River area as required by the Coast Guard.

FOR FURTHER INFORMATION CONTACT: Commander D.F. Withee, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, Telephone number (504) 589-6901.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: August 10, 1987.

W.P. Hewel,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 87-18492 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 1509, Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on September 21-23, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of the Minutes of the Fifteenth Meeting; (3) Resolution of MSPS Issues; (4) Implementation Issues; (5) Update on Related Activities; (6) Further Development of MSPS; (7) Task Assignments; (8) Other Business; and (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 6, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87-18427 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 156, Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard to be held on September 28-30, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of the Minutes of the Fifteenth Meeting; (3) Review Task Assignments; (4) Review Draft of the Committee's Report; (5) Other Business; (6) Task Assignments; and (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 6, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87-18428 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 135, Environmental Conditions and Test, Procedures for Airborne Equipment; Meeting

Pursuant to section 10(a)((2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 135 on Environmental Conditions and Test Procedures for Airborne Equipment to be held on September 15-17, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approve Minutes of the Eighth Meeting; (3) Review RF Susceptability Problem and Section 20; (4) Review Draft Section 22; (5) Review Current Status of Section 2; (6) Review of Changes Proposed for DO-160C; (7) Review Proposed Section on Icing Procedures; (8) Update Change Coordinator List; (9) Other Business; and (10) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 6, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87-18429 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Availability of Funds for Research Studies To Evaluate the Impact of Injuries on American Society

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of grant availability.

SUMMARY: The National Highway Traffic Safety Administration in cooperation with the Centers for Disease Control (CDC) announces that competitive applications for grants are being accepted to conduct research to evaluate the impact that injuries with their associated disabilities, have on American society.

DATE: Applications must be submitted on or before September 1, 1987.

ADDRESS: Applications must be submitted to the attention of Mr. Thomas Stafford, Director, Office of Contracts and Procurement, National Highway Traffic Safety Administration, 400 7th Street, SW., Room 5301, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. James Auten, Office of Contracts and Procurement, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–9559.

SUPPLEMENTARY INFORMATION: This research is authorized under section 106(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89–563) and Chapter 11 of the Supplemental Appropriations Act of 1987 (Pub. L. 100–71).

Program Background and Objectives

The research sought under this program is intended to provide the basis for a report which will evaluate the impact that injuries and their associated disabilities have on American society. The research should identify the effect on injuries on state and local governments, local communities, families and indviduals. The report on this research shall include an estimate of the Nation's long-term costs of treatment and rehabilitation of injuries, including motor vehicle injuries, and describe the extent to which existing government and nongovernment programs cover these costs. The report shall further provide an estimate of the potential savings to all levels of government that could result from the prevention of injuries, including motor vehicle injuries, and their consequences.

The report must be completed by January 1989 and the research, which provides the basis for this report, shall be supported by grants covering a one-year period commencing no later than October 15, 1987.

This research will be supported by one-year grants to three grantees, not to exceed a total of $400,000. One grantee will be assigned the responsibility to coordinate the research and preparation of the final report. No one grant under this project will exceed $200,000.

Eligible Applicants

Eligible applicants are States, interstate agencies and non-profit institutions.

Applicants must be submitted on Standard Form 424 (an original and five copies must be submitted) and include:

1. A. description of the research to be pursued, including:

(i) The method or methods that will be used,

(ii) The sources of data that will be examined,

(iii) And how the specific research contributes to the required report,

2. A list of those individuals responsible for the conduct of the research, their qualifications, and the role each will play, and

3. A complete budget for the period of this research, to include the grantee's shared cost.

Review Process

All proposals will be reviewed and evaluated by NHTSA and CDC staff to determine the applicant's understanding of the problem, the applicant's qualifications, the suitability of the proposed research plan, and evidence of the applicant's capability to effectively carry out the project on schedule.

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Project Management

An agreement will be reached with each grantee following the award of the grant to assure that, to the maximum degree possible, there is not undue duplication of research. It is anticipated that one of the grantees will be assigned the responsibility for coordination of the research and development of the final report.

Issued on: August 10, 1987.

Michael M. Finkelstein,

Associate Administrator for Research and Development.

[FR Doc. 87–18471 Filed 8–12–87; 8:45am]

BILLING CODE 4910–59–M

[Docket No. IP 87–09; Notice 1]

Receipt of Petition for Determination of Inconsequential Noncompliance; Hose America, Inc.

Hose America, Inc. of Iola, Kansas, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.106, Federal Motor Vehicle Safety Standard No. 106, "Brake Hoses", on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The subject air brake hose has a ⅜ inch nominal internal diameter and was designed for use between the frame and axle or between a towed and a towing vehicle. Paragraph S7.3.10 "Tensile Strength", of Standard No. 106 requires that such hose shall withstand a pull of 325 pounds without separation of the hose from its end fittings.

Hose America reported receiving 106,500 feet of hose produced by Thermoid, Inc. in March 1987 and identified by the symbol KX 93–87 and the following batch codes:

A 571 A
B 571 A
C 571 A
D 571 A
E 571 A
F 571 A

As of May 27, 1987, of the 106,500 feet delivered to Hose America, 88,452 feet have been isolated for recovery. Of the remaining 18,048 feet, 3000 feet have been completed as brake hose assemblies and installed on vehicles, but are documented as passing the pull test requirement. As of May 16, 1987, there were 15,044 feet of hose installed as hose assemblies on vehicles produced by four trailer manufacturers and two hoses (4') (delivered by a distributor to Hose America) which may not comply with the pull test requirements.

When tested a few hours after assembly the samples of the above mentioned lot of bulk hose showed the following results at pull test:

Lbs. of pull	No. of samples
283	4
289	3
285	1
300	1
306	2
318	4
324	2
330	1
336	1
348	1
365	2
	22

Average pounds of pull: 313.6
Lowest pound of pull: 283
Highest pound of pull: 365

In addition, pull tests on freshly made hose assemblies produce elongation over 150% before failure and no leak at 300 psi.

A second pull test was conducted one week after assembly. This test showed values of pounds of pull between 377 and 436. The improvements, according to Hose America, are attributed to the hose having time to set around the barb and the shell of the end fitting assembly. Hose America believes that, even in the condition of "freshly made hose assemblies", "the possibility of noncompliance . . . is inconsequential as it relates to Motor Vehicle Safety."

Interested persons are invited to submit written data, views and arguments on the petition of Hose America, Inc. described above. Comments should refer to the docket

Number and be submitted to: Docket section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC, 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the Federal Register pursuant to the authority indicated below.

Comment Closing Date: September 14, 1987.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: August 10, 1987.

Ralph J. Hitchcock,

Acting Associate Administrator for Rulemaking.

[FR Doc. 87-1847 Filed 8-12-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 7, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0244
Form Number: 6199
Type of Review: Extension
Title: Certification of Youth Participating in a Qualified Cooperative Education Program
Description: Internal Revenue Code section 51(d)(8) requires that qualified school cooperative programs must certify their qualified students as youths participating in a qualified cooperative program in order that wages paid to the students by an employer be qualified for the jobs credit. Form 6199 provides for this certification.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 47,424 hours
Clearance Officer: Garrick Shear (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-18452 Filed 8-12-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 7, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0231
Form Number: 6478
Type of Review: Resubmission
Title: Credit for Alcohol Used as Fuel
Description: Internal Revenue Code section 38(b)(3) allows a credit against income tax for businesses that sell or use alcohol mixed with other fuels or sold straight. Form 6478 is used to compute this alcohol fuel credit.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 6,280 hours
OMB Number: 1545-0984
Form Number: 8586
Type of Review: Resubmission
Title: Low Income Housing Credit
Description: The Tax Reform Act of 1986 (Pub. L. 99-514) permits owners of residential rental projects providing low-income housing to claim a credit against income tax for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by IRS to verify that the correct credit has been claimed.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 30,129 hours
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-18453 Filed 8-12-87; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

User Fee Advisory Committee Meeting

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice or meeting.

SUMMARY: In accordance with the Consolidated Omnibus Budget Reconcilation Act of 1985, and the Federal Advisory Committee Act, a User fee Advisory Committee for the Customs Service has been established. This document lists the members of the Committee, its purpose, and announces a forthcoming meeting and the agenda for the meeting.

DATE AND TIME: August, 27, 1987, 1:30 p.m.

ADDRESS: Customs Service Headquarters, 1301 Constitution Avenue NW., Room 3428, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Chuck Davies, Director, Customs User Fee Task Force, 202-566-9425.

SUPPLEMENTARY INFORMATION: The Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), established a schedule of fees chargeable to users of various services provided by Customs in connection with the processing of persons, aircraft, vehicles, vessels and dutiable mail arriving in the U.S., as well as for the payment of an annual fee by Customs brokers. Subsequently, section 8101 of the Omnibus Budget Reconcilation Act of 1986 (Pub. L. 99-509), established an ad valorem user fee to be collected by Customs on formal entries of imported merchandise. These user fees, which have been codified in 19 U.S.C. 58C, were modified by the Tax Reform Act of 1986 (Pub. L. 99-514).

Section 13033 of Pub. L. 99-272 provided that in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 99-463), the

Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the U.S. Customs Service for the purpose of covering expenses incurred by the Customs Service. Further, the advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the Customs services. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriations of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

In accordance with the Federal Advisory Committee Act the Secretary has established a charter for User Fee Advisory Committee for the Customs Service and approved the following members to serve on the Committee.

Committee Members

Air Tranport Association of America, 1709 New York Avenue NW., Washington, DC 20006—James Landry, Senior V.P. and General Counsel

American President Lines, 1800 Harrison Street, Oakland California 94612—Gary S. Taylor, Corporate Director, Customer Service & Documentation Services

American Association of Exporters and Importers, 11 West 42nd Street, New York, New York 10036—Eugene Milosh, President

American Trucking Association, 2200 Mill Road, Alexandria, Virginia 22314—Lana R. Batts, V.P. Policy

Association of American Railroads, 50 F Street NW. Washington, DC 20001—J. Thomas Tidd, Vice President and General Counsel

Board of Harbour Commissioners (Long Beach) P.O. Box 570, Long Beach, California 90801—Paul Brown, Director of Finance

Board of Commissioners, Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160—J. Ron Brinson, Executive Director (Past President)

UPS, 3901 Atkinson Square, Louisville, Kentucky 40218—Edwin Reitman, Vice President

3M Corporation, 3M Center, Building 220–6E–02–Tax Division, St. Paul, Minnesota 55144–1000—Kenneth A. Kumm, Manager, Customs & Trade Affairs (Chairman, Joint Industry Group)

Rudolph Miles & Sons, Customs House Brokers, 4950 Gateway East, P.O. Box 144, El Paso, Texas 79942—Michael M. Miles, Vice President

National Business Aircraft Association, 1200 18th Street, NW., 2nd floor, Washington, DC 20036—William Stine, Manager Plans & International Aviation

National Customs Brokers & Forwarders Association of America, 5 World Trade Center, New York, New York 10048—Arthur J. Fritz

New York/New Jersey Port Authority, 1 World Trade Center, New York, New York 10048—Robert J. Aaronson, Director, Aviation Department

Price Waterhouse, 1801 K. Street NW., Washington, DC 20006—Robert P. Schaffer, Senior Manager

Lehigh-Northamption Airport Authority, A–B–E International Airport, Allentown, Pennsylvania 18101—Jack Yohe, Airport Director

Pan American Airlines, 1660 L. Street NW., Washington, DC 20036—Richard D. Mathias, Senior Vice President

Meeting Agenda

At the first meeting of the Committee held on May 19, 1987, the members were introduced to each other and a format for the conduct of future meetings was established. There also was a general discussion of the various user fees Customs is now colllecting and other issues relating to the performance of Customs services for which the fees are being charged. At this meeting there will be a discussion of the current status of user fees, collection, centralized examination stations, user fee airport/courier service reimbursement, fee levels, legislative proposals, as well as service levels. The Committee will be chaired by Michael H. Lane, Deputy Commissioner of Customs.

Public Participation

The meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days before the meeting. The Committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: August 11, 1987.

Michael H. Lane,

Deputy Commissioner of Customs.

[FR Doc. 87–18654 Filed 8–12–87; 9:33 am]

BILLING CODE 4820–02–M

DEPARTMENT OF TREASURY

Internal Revenue Service

[Delegate Order No. 193 (Rev. 1)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Treasury Secretary Baker recently approved a reorganizaton of the Commissioner's Office in the Internal Revenue Service in which three Deputy Commissioner positions were established, A Senior Deputy Commissioner, and Deptuty Commissioners (Operations) and (Planning and Resources). The attached delegation order, whost text appears below, provides for this reorganization and delegates appropriate authorities to each of the Deputy Commissioners.

EFFECTIVE DATE: August 30, 1987.

FOR FURTHER INFORMATION CONTACT: Melva Scruggs, PM:PFR:P:I, Room 3526, 1111 Constitution Avenue NW., Washington, DC 20224, (202) 566–4273.

Martha M. Seeman,

Chief, Information and Productivity Improvement Branch.

[Order No. 193 (Rev. 1)]

Effective Date: August 30, 1987.

Delegation to Deputy Commissioners of Internal Revenue

Pursuant to the authority vested in me as Commissioner of Internal Revnue by Treasury Department Order No. 150–10, the Senior Deputy Commissioner is authorized to perform any function the Commissioner is authorized to perform.

The Deputy Commissioners (Operations) and (Planning and Resources) are authorized to perform only those functions the Commissioner is authorized to perform which arise out of, relate to, or concern the activities or functions each administers.

Each of these officials shall perform functions under this authority in his or her own capacity and under his or her own title and shall be responsible for referring to the Commissioner any matter on which action would appropriately be taken by the Commissioner.

This authority may not be redelegated.

Delegation Order No. 193, effective March 1, 1982, is superseded.

Dated: August 3, 1987.

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 87–18507 Filed 8–12–87; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

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).

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board). The regular meeting of the Board originally scheduled for August 4, 1987 is rescheduled to Tuesday, August 18, 1987.

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 18, 1987, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: William A. Sanders, Jr., Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703-883-4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Summary Prior Approval Items
2. Policy Directives:
   - —Consideration of the FCA Policy Related to Loan Documentation Requirements of Farm Credit System Institutions.
   - —Consideration of Policy Related to Examination of Federal Land Bank Associations
3. [1] Review of Financial Condition of Farm Credit System Institutions and Consideration of Certifying to Treasury that the System is in Need of Financial Assistance
4. [1] Examination, Supervision and Enforcement Matters
5. [1] Discussion of Legislative Matters

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (4), (8) and (9).

William A. Sanders, Jr.,
Secretary, Farm Credit Administration.
[FR Doc. 87-18511 Filed 8-10-87; 5:05 pm]
BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:03 p.m. on Monday, August 10, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).

Dated: August 11, 1987.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 87-18594 Filed 8-11-87; 3:18 pm]
BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, August 18, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, August 20, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1987-22: Mike Willard on behalf of Willard & Arnold Communications, Inc.
Eligibility Determinations and Certifications to U.S. Treasury in the Year Preceding the Election.
Final Repayment Determination—Lyndon LaRouche.
FY 1989 Budget Request.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 87-18603 Filed 8-11-87; 3:36 pm]
BILLING CODE 6715-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 3:32 p.m., Monday, August 10, 1987.

PLACE: 1776 G Street, NW., Washington, DC, 6th Floor.

STATUS: Closed.

MATTER CONSIDERED:

1. Conservatorship

The Board unanimously voted that Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8), (9)(A)(ii), and (9)(B). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Teresa A. Hernandez, Acting Secretary of the Board, Telephone (202) 357-1100.

Teresa A. Hernandez,
Acting Secretary of the Board.
[FR Doc. 87-18569 Filed 8-11-87; 12:17 p.m.]
BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Grade Standards

Correction

In rule document 87-17563 beginning on page 28533 in the issue of Friday, July 31, 1987, make the following correction:

On page 28533, in the third column, in the fifth line, after "rule", insert "are minor and technical in nature. It is not anticipated that this final rule".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

34 CFR Part 636

Cooperative Education Program

Correction

In rule document 87-17764 beginning on page 29140 in the issue of Wednesday, August 5, 1987, make the following correction:

PART 636—CORRECTED]

On page 29147, in the third column, in the **Authority** paragraph under amendatory instruction 2., in the last line, "951" should read "591".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Guaranteed Student Loan Program, SLS Program, PLUS Program, and Consolidation Loan Program

Correction

In notice document 87-17561 beginning on page 28746 in the issue of Monday, August 3, 1987, make the following correction:

On page 28746, in the third column, in item II., in the second line, "November 15, 1986;" should read "November 16, 1986,".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201-8

[FIRMR Amdt. 10]

Implementation of Federal Information Processing Standards (FIPS) and a Federal Telecommunications Standard (FED-STD) in the Federal Information Resources Management Regulation (FIRMR)

Correction

In rule document 87-17393 beginning on page 28556 in the issue of Friday, July 31, 1987, make the following correction:

§ 201-8.107-6 [Corrected]

On page 28558, in the second column, in § 201-8.107-6(a), in the third line, "Xll" should read "X11".

BILLING CODE 1505-01-D

federal register

Thursday
August 13, 1987

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases Onshore Oil and Gas Order No. 3-Site Security; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[AA-630-87-4111-02]

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases, Onshore Oil and Gas Order No. 3, Site Security

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would provide for the issuance of Onshore Oil and Gas Order No. 3 under the provisions of 43 CFR Subpart 3164. This Order implements and supplements the requirements found in 43 CFR Part 3160 as they apply to site security. The Order would address the seal requirements when sales are based on measurement by tank gauging, lease automatic custody transfer units, or combinations thereof. The Order would also cover site security plans, facility diagrams, transporters' documentation, unauthorized removal or mishandling of production, and the recordkeeping and reporting requirements attendant thereto. In addition, the Order would detail enforcement actions and would allow for variances from specific standards. This Order would supersede Notice to Lessees and Operators No. 7.

DATE: Comments should be submitted by October 13, 1987. Comments received or postmarked after the above date may not be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Duletsky, (202) 653-2286, or Stephen Spector, (202) 653-2147, or Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: In the existing regulations in 43 CFR Part 3160—Onshore Oil and Gas Operations, § 3164.1 provides for the issuance of Onshore Oil and Gas Orders when necessary to implement and supplement the regulations in Part 3160. All Orders will be promulgated through the rulemaking process and, when issued in final form, will apply on a nationwide basis. A table is included in § 3164.1 of the existing regulations which shows the existing, and if applicable, former Orders and former Notices to Lessees and Operators. This proposed rulemaking would result in another such Order.

During 1985 and 1986, the Department of the Interior conducted a thorough review of the inspection and enforcement regulations for onshore oil and gas operations, including provisions covering site security and seal requirements. This review resulted in the promulgation of new regulations on inspection and enforcement on February 20, 1987 (52 FR 5384). The public comments received on the proposed rulemaking issued during the review resulted in refinement of the provisions of the final rulemaking concerning site security and seal requirements, as well as many of the provisions of this proposed order.

This Order would implement and supplement the seal requirements contained in § 3162.7-4 of the final rulemaking discussed above that are applicable to storage and sales facilities and their related piping systems. This Order also would address documentation of sales, the requirements related to the transportation of crude oil by truck, and the application of the seal requirements to certain sales conditions relating to single and multiple truck loads of crude oil. The sea requirements for facilities having single and multiple storage tanks would be addressed.

The Order would cover the piping configuration in lease automatic custody transfer (LACT) unit and gas metering systems, but the coverage would be limited to production accountability. Specific guidance would be provided for the contents of a site security plan, the site facility diagram, and the requirements for facility diagrams when separate lease facilities are colocated. Finally, the Order also would classify all violations as major or minor.

The principal authors of this proposed rulemaking are John Duletsky, Washington Office, James Weber, Washington Office, Raymond Thompson, New Mexico State Office, and Allen Schweighart, Worland District Office, Wyoming, assisted by the Orders Task Group, the staff of the Division of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it 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.).

Onshore Order No. 3 will have no adverse economic effects since its requirements reflect the operating practices currently followed by prudent operators when conducting production and sales operations on leases under the jurisdiction of the Bureau of Land Management. It may provide a beneficial economic effect because industry is less likely to be subjected to assessments or penalties resulting from violations and/or the requirement to undertake costly remedial actions due to a better understanding of the Bureau's requirements which relate to site security. The major requirements contained in this Order essentially are those which have been required in the past by the Department of the Interior and would impose the same burden on all lessees and operators, regardless of size, on lands where site security is under the jurisdiction of this Bureau.

The proposed Order will not affect current information collection and recordkeeping requirements which have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0134.

List of Subjects in 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting and recordkeeping requirements.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Act of May 30, 1930 (30 U.S.C. 301-306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a-396q), the Act of February 28,1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a-398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) and the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), it is proposed to amend Part

3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3160—[AMENDED]

1. The authority citation for Part 3160 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of May 31, 1930 (30 U.S.C. 301–306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. 441 (43 U.S.C. 1457), See also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (42 U.S.C. 6508), the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102 et seq.).

2. Section 3164.1 is amended by revising the table which is part of paragraph (b):

§ 3164.1 Onshore oil and gas orders.

* * * * *

(b) * * *

Order No. and subject	Effective date	Federal Register reference	Supersedes
1 Approval of operations	November 12, 1983.	48 FR 48916 and 48 FR 56226.	NTL–6
2 Drilling operations			None
3 Site security			NTL–7

Note: Numbers will be assigned by the Washington Office, Bureau of Land Management, to additional Orders as they are prepared for publication and added to this table.

James E. Cason,

Acting Assistant Secretary of the Interior.

June 29, 1987.

Appendix—Text of Oil and Gas Order No. 3

Note: This appendix is published for information only and will not appear in the Code of Federal Regulations.

Onshore Oil and Gas Order No. 3

Site Security

I. Introduction.
A. Authority.
B. Purpose.
C. Scope.
II. Definitions.
III. Requirements.
A. Storage and Sales Facilities—Seals.
B. Lease Automatic Custody Transfer (LACT) Systems—Seals.
C. Removal of Crude Oil from Storage Facilities by Means Other than through a LACT Unit.
D. By-Pass Around Meters.
E. Theft or Mishandling of Oil.
F. Self Inspection.
G. Recordkeeping.
H. Site Security Plan.
I. Site Facility Diagram.
IV. Variances from Minimum Standards.
Attachments.
I. Diagrams.
II. Sections from 43 CFR Subparts 3163 and 3165.

Onshore Oil and Gas Order No. 3

Site Security

I. Introduction

A. Authority

This Order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued.

Specific authority for the provisions contained in this Order is found at: § 3162.4–1, *Well records and reports;* § 3162.7–1, *Disposition of Production;* § 3162.7–4, *Site Security on Federal and Indian (except Osage) Oil and Gas Leases;* and Subpart 3163 Noncompliance and Assessments.

B. Purpose

The purpose of this Order is to implement and supplement the regulations in 43 CFR 3162.7–1 and 3162.7–4. This Order establishes the minimum standards for site security by providing a system for production accountability and covers the use of seals, by-passes around meters, self-inspection, transporters' documentation, reporting of incidents of unauthorized removal or mishandling of oil, facility diagrams, recordkeeping, and site security plans.

The Order identifies certain specific acts of noncompliance, rates them as to severity, establishes abatement periods for corrective action for such acts of noncompliance, and provides for variances. This Order establishes the procedures to be used by a cited party for requesting an extension of the abatement period and identifies the procedures to be used in requesting administrative review of enforcement decisions.

C. Scope

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order is applicable to nonjurisdictional lands (State or privately held) when Federal and/or Indian leases are entitled to share in the revenues generated by wells on such lands under the terms of an approved agreement.

II. Definitions

It should be noted that the existing regulations implementing the enforcement provisions of the Federal Oil and Gas Royalty Management Act and mineral leasing Acts at § 3162.7–4 no longer include the defined terms "closed system" and "open system." As a result of this change, the provisions of the existing regulations covering access to any piping system subject to seal requirements no longer includes such fittings as blanking caps, bullplugs, and/or flat plugs; and the term "access" shall have the meaning contained in this section.

A. Access means the ability to enter into any tankage or piping system through a valve, valves or combination of valves and/or tankage which would permit the removal of oil without documentation as provided by this Order.

B. Appropriate Values mean those values in a particular piping system, i.e.,

fill lines, equlizer or overflow lines, sales lines, circulating lines, and drain lines, that shall be sealed during a given operation (See 43 CFR 3162.7–4(a)).

C. Authorized Representative means any entity or individual authorized by the Secretary to perform duties by cooperative agreement, delegation, or contract (See 43 CFR 3160.0–5).

D. By-Pass means any piping arrangement connected upstream and downstream of a meter which allows oil or gas to continue on the sales line without passing through the meter. Equipment which permits the changing of the orifice plate without bleeding the pressure off the gas meter run shall not be considered a by-pass.

E. Effectively Sealed means the placement of a seal in such a manner that the position of the sealed value may not be altered without the seal being destroyed (See 43 CFR 3162.7–4(a)).

F. Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions (See 43 CFR 3000.0–5(a).

G. Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas (See 43 CFR 3160.0–5).

H. Lessee means that party authorized by or through a lease or an approved assignment thereof, to explore for, develop and produce oil and gas on the lease site in accordance with the lease terms, regulations, and law. For convenience of reference throughout this Order, the term lessee also refers to and includes the owners of approved operating rights and designated operators (See 43 CFR 3160.0–5).

I. Major Violation means noncompliance which causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (See 43 CFR 3160.0–5).

J. Minor Violation means noncompliance which does not rise to the level of a "major violation" (see 43 CFR 3160.0–5).

K. Oil means all nongaseous hydrocarbon substances, other than those substances leasable as coal, oil shale or "gilsonite" (including all vein-type solid hydrocarbons) (See 43 CFR 3000.0–5).

L. Clean Oil/Pipeline Oil means crude oil or condensate that is of such quality that it is acceptable to normal purchasers.

M. Bad Oil means crude oil that is not marketable to normal purchasers but that can be treated economically by use of heat, chemicals, or other methods or combination of methods with existing or modified lease facilities or portable equipment.

N. Slop Oil means crude oil that is of such quality that it is not acceptable to normal purchasers and which requires special treatment other than that which can economically be provided with existing or modified facilities or portable equipment and is usually sold to oil reclaimers.

O. Waste Oil means lease crude oil that has been determined by the authorized officer to be of such quality that it cannot be treated economically and put in a marketable condition with existing or modified lease facilities or portable equipment and cannot be sold to reclaimers and also has been determined by the authorized officer to have no economic value.

P. Operator means the party that has control or management of operations on the lease lands or any portion thereof. The operator may be a lessee, holder of rights under an approved operating agreement, or designated operator (See 43 CFR 3160.0–5).

Q. Piping means all tubular goods made of any material (e.g., metallic, plastic, fiberglass, and/or rubber).

R. Production Phase means that period of time or mode of operation during which crude oil is delivered directly to or through production vessels to the storage facilities and includes all operations at the facility other than those defined by the sales phase (See 43 CFR 3162.7–4(a)).

S. Sales Phase means that period of time or mode of operation during which crude oil is removed from the storage facilities for sale, transportation, or other purposes (See 43 CFR 3162.7–4(a)).

T. Seal means a device, uniquely numbered, which completely secures a valve (See 43 CFR 3162.7–4(a)).

III. Requirements

A. Storage and Sales Facilities—Seals

1. Minimum Standards (See 43 CFR 3162.7–4(b)).

a. The primary purpose for use of seals is to provide a means of documenting the removal of production for royalty purposes. Additionally, seals provide a means of detecting unauthorized entry to, and removal of, production. The seal requirements are based on American Petroleum Institute (API) recommended practice No. 12 R1, 3rd Edition, dated May 31, 1986, entitled "API Recommended Practice for Setting, Connecting, Maintenance and Operation of Lease Tanks."

b. All lines entering or leaving all oil storage tanks shall have valves capable of being effectively sealed during the production and sales operations unless otherwise provided under the provisions of this Order, and any equipment needed for effective sealing, excluding the seals, shall be located at the site (See Attachment I). Each ineffectively sealed valve or appropriate valve not sealed shall be considered a separate violation.

c. Additionally, valves or combinations of valves and tankage that provide access to the production prior to measurement for sales or lease use purposes are considered appropriate valves and are subject to the seal requirements of this Order (See Attachment I).

d. Valves on any tank which contains oil or is connected to the production equipment are considered appropriate valves and are subject to the seal requirements contained in this Order, except those valves on tanks which contain oil that has been determined by the authorized officer to be waste oil or valves on tanks used for the primary treatment of lease production (See Attachment I).

e. Exclusions to seal requirements contained in this Order shall be limited to the following:

i. Valves on tanks which are used as production vessels, i.e., gunbarrels/wash tanks;

ii. Valves on water tanks, provided the possibility of access does not exist;

iii. Sample cock valves utilizing piping of 1 inch or less in diameters;

iv. When a single tank is used for collecting small volumes of condensate produced from a gas well, the requirement is waived for requiring the fill line valve to be sealed during shipment; but all other seal requirements of this Order shall apply;

v. Gas line valves of 1 inch or less used as tank bottom "roll" lines need not be sealed; provided there is no access to the contents of the storage tank and said lines cannot be used as equalizer lines;

vi. Tank heating systems which use a source of fluid other than the contents of the storage tank, i.e., steam, water, glycol; and

vii. Valves, connected directly to the pump body, used on pump bleed off lines of 1 inch or less in diameter.

f. For systems where production may only be removed through the lease automatic custody transfer (LACT) system, no sales or equalizer lines need to be sealed. However, any valves

which allow access for the removal of oil prior to its measurement through the LACT shall be effectively sealed (See Attachment I).

g. For oil measured and sold by tank gauging, all appropriate valves shall be sealed during the production or sales phase, as applicable. Circulating lines having valves which may allow access for the removal from storage and sales facilities to any other source except through the treating equipment back to storage facilities shall be effectively sealed as near the storage facility as possible (See Attachment I).

2. Enforcement Provisions.

a. The following appropriate valves shall be effectively sealed in the proper position:

—Sales valves
—Circulating valves
—Drain valves
—Fill valve
—Equalizer valve (except the violation shall be minor when the valve is not effectively sealed when used in connection with adjacent tanks, each of whose individual available capacity is more than 1 days average production).

Violation: Major (except as provided).
Corrective Action: Seal as required.
Normal Abatement period: 1 working day from notice for sales, drain, and circulating valves and prior to sale or removal for fill and equalizer valves.

b. Devices used in conjunction with seals for effectively sealing appropriate valves shall be maintained on the site. The absence of each required sealing device shall be considered a separate violation. The requirement for each sealing device is as follows:

—Sales valves
—Circulating valves
—Drain valves
—Fill valve
—Equalizer valve (except the violation shall be minor when the valve is not effectively sealed when used in connection with adjacent tanks, each of whose individual available capacity is more than 1 days average production).
—Any other appropriate valve.

Violation: Major (except as provided).
Corrective Action: Provide required device.
Normal Abatement Period: 1 working day from notice for sales, drain, and circulating valves and prior to sale or removal for fill and equalizer valves.

B. Lease Automatic Custody Transfer (LACT) Systems—Seals

This portion of the Order is predicated on the minimum requirements for the components to be used in a LACT system contained in Onshore Oil and Gas Order No. 4 (to be published), LACT Components and General Operating Requirements; API Manual of Petroleum Measurement Standards, Chapter 6.1, 1st Edition, 1981, or the latest revised standard; and API Spec 11N, 2nd Edition, March 1979, entitled "Lease Automatic Custody Transfer (LACT) equipment."

1. Minimum Standards.

Each LACT unit shall employ meters that have non-resettable totalizers and there shall be no by-pass around the LACT unit. The seal requirements apply to the components used for volume or quality determination of the oil being shipped. Each missing or ineffective seal shall be considered a separate violation. During normal operations the following components shall be effectively sealed:

—Sample probe
—Sampler volume control
—All valves on lines entering or leaving the sample container excluding the safety pop-off valve (if so equipped). Each valve shall be sealed in the open or closed position, as appropriate
—Meter assembly, including the counter head, meter head and, if so equipped, automatic temperature compensator (ATC)automatic temperature and gravity selection device (ATG)
—Temperature recorder (if so equipped)
—Back pressure valve downstream of the meter
—Any drain valves in the system
—Manual sampling valves (if so equipped).

Violation: Major.
Corrective Action: Seal as required.
Normal Abatement Period: 1 working day after notice.
—Absence of non-resettable totalizer.
Violation: Major.
Corrective Action: Install a meter head that utilizes a non-resettable totalizer.
Normal Abatement Period: Install prior to sales or removal of production through the meter.

C. Removal of Crude Oil From Storage Facilities by Means Other Than Through a LACT Unit

The determination of the volume and quality of crude oil removed and sold from a storage facility shall be made by the lessee/operator in accordance with the accepted procedures for the measurement of oil (See Onshore Oil and Gas Order No. 4, Part III. A., Oil Measurement by Tank Gauging).

1. Minimum Standards.

a. The lessee/operator shall require the transporter/purchaser to record on a run ticket prior to sales or removal of any crude oil from the lease, as a minimum, the following:

—Name of the seller
—Federal or Indian lease number(s), or as appropriate, the communitization agreement number or the unit agreement name and number and participating area identification*
—The location of the tank by quarter, quarter section, section, township and range (public land surveys) or by the legal land description
—A unique number, the date and time, and the tank number and capacity
—Opening gauge*
—Observed gravity, temperature, and sediment and water (S & W) content*
—Name of gauger and lessee/operator representative, if present at time of sale
—Number of the seal removed*.

Violation: Minor (all items unless marked by asterisk).
Corrective Action: Complete missing information.
Normal Abatement Period: Upon request or within 48 hours of notice.
*Violation: Major.
Corrective Action: Submit completed run ticket.
Normal Abatement Period: Within 48 hours of notice.

b. The lessee/operator shall require that the run ticket be completed upon the completion of the sales or removal of oil from the lease to show the following:

—Closing gauge (second gauge)*
—Temperature*
—Date and time
—Number of the seal installed*
—Signature of the gauger
—Signature of the lessee/operator representative (within 2 working days after the sales or removal).

Violation: Minor (all items unless marked by asterisk).
Corrective Action: Complete missing information.
Normal Abatement Period: Upon request or within 48 hours of notice.
*Violation: Major.
Corrective Action: Submit completed run ticket.
Normal Abatement Period: Within 48 hours of notice.

c. When a single truck load constitutes a completed sale, the driver shall have in his/her possession as documentation a completed run ticket during the period of shipment. When multiple truckloads are involved in a sale and the purchase is predicated on the difference between the opening and closing gauges (implying that the purchaser has purchased the entire tank), only the driver of the last truck is required to have documentation in the form of a completed run ticket and all of the other drivers shall have in their possession appropriate documentation in the form of a trip log or manifest. The

sales tank and the sales line valve need not be sealed between truck loads, but shall be sealed at the time the sale is completed. Once the seals have been broken, the purchaser shall be responsible for the entire contents of the tank until resealed.

Violation: Major.
Corrective Action: Provide documentation or unload the truck(s) into the tank(s) from which the product was obtained.
Normal Abatement Period: Prior to leaving the facility.

D. By-Pass Around Meters

1. Minimum Standard.

There shall be no by-pass around gas meters or LACT unit meters.

Violation: Major.
Corrective Action: Remove by-pass.
Normal Abatement Action: Immediate correction required.

E. Theft or Mishandling of Oil

1. Minimum Standard.

a. The operator shall, not later than the next business day after discovery of an incident of apparent theft or mishandling of crude oil, report such incident to the authorized officer. If the operator fails to timely file the required report, a notice of such violation shall be sent. A notice of late filing of an incident of mishandling or apparent theft of oil may be considered to establish knowing or willfull conduct. The incident report shall supply the following:

—Company name and name of individual reporting the incident(s)
—Lease number, communitization agreement number, or unit agreement name and number and participating area, as appropriate
—Location of facility where the incident occurred by quarter, quarter section, section, township, and range or legal land description
—The volume of oil or condensate removed
—The way access was obtained to the production or how the mishandling occurred
—The individual who discovered the incident
—Date and time of the discovery of the incident
—Whether the incident was or was not reported to local law enforcement agencies and company security.

Violation: Minor (failure to file a complete report).
Corrective Action: Submit complete report of incident.
Normal Abatement Period: Within 48 hours of notice of failure to file a complete report.
*Violation: Major (failure to report incident).
Corrective Action: Submit report of incident.
Normal Abatement Period: Within 24 hours of notice of failure to report incident.

F. Self Inspection

1. Minimum Standard.

Operators/Lessees shall establish an inspection program for all leases for the purpose of periodically measuring production volumes and to assure that there is compliance with the minimum site security requirement. The program shall include a record of such inspections showing the findings of the inspection and a record of the volume measurements.

Violation: Minor.
Corrective Action: Institute an inspection program that includes a record of such inspections and establishes a measurement schedule.
Normal Abatement Period: 20 days of notice.

G. Recordkeeping

1. Minimum Standard.

The operator/lessee shall establish and maintain for a minimum of 6 years a recordkeeping system which shall be readily available to the authorized officer or authorized representative upon request and which includes all of the following as a minimum:

—Documentation of the number of each seal and the valve on which that seal is used, the date and time of installation or removal of the seal(s) for each storage tank, including the reason for the removal or installation of each such seal*
—Documentation of each seal used on the LACT unit showing the component sealed and the date and time the seal was installed and removed, including the reason(s) for such removal*
—Self inspection program records required by section F. hereof.

Violation: Minor (all items unless marked by asterisk).
Corrective Action: Maintain and provide requested records.
Normal Abatement Period: Establish within 20 days after notice or provide upon request.
*Violation: Major (unless specific sealing requirement is minor).
Corrective Action: Establish a system, maintain and provide requested records.
Normal Abatement Period: 1 working day after notice.

H. Site Security Plan

1. Minimum Standard.

The operator/lessee shall establish a plan for complying with the minimum site security standards set forth herein. The plan need not be submitted to the authorized officer, but the authorized officer shall be notified of the location where the plan is maintained and the normal working hours of said location. The plan shall be available to the authorized officer upon request. The plan shall include, but is not limited to, the following:

—A self inspection program that monitors production volumes and ensures compliance with all seal requirements at each storage and sales facility and each LACT unit, if applicable (See Section III F hereof)
—A system to ensure the maintenance of accurate seal records and the completion of accurate run tickets (See Section III A, B and C hereof)
—A system to ensure the reporting of incidents of apparent theft or mishandling of oil (See Section III E hereof)
—A system to ensure that there are no by-pass of meters (See Section III D hereof)
—A listing of the leases, communitization agreements, unit agreements, and specific facilities that are subject to each plan
—Notification of the authorized officer of the completion of a plan and site facility diagram(s) and the leases, communitization agreements, unit agreements, and specific facilities that are subject to each plan and diagram(s)
—Notification of the authorized officer within 60 days of completion of construction of a new facility or of commencement of first production or of inclusion of the production from a committed non-Federal well into a federally supervised unit or communitization agreement, whichever occurs first, whether that facility is covered by a specific existing plan or a new plan has been prepared.

Violation: Minor.
Corrective Action: Comply with requirements.
Normal Abatement Period: 20 days after notice.

I. Site Facility Diagram

1. Minimum Standard.

A facility diagram is required for all facilities used in storing oil/condensate produced from or allocated to Federal and Indian Lands, including those facilities not located on Federal or Indian lands but which are subject to Federal supervision through commitment to a federally approved unit agreement or communitization agreement. No format is prescribed for

facility diagrams. However, the facility diagram should be prepared on 8½ x 11 paper, if possible, and should be legible and comprehensible to an individual with an ordinary working knowledge of oil field operations (See Attachment I). The facility diagram shall:

—Accurately reflect the actual position of the production equipment, piping, and metering systems in relationship to each other, but need not be to scale
—Commencing with the header, identify the vessels, piping, and metering systems located on the site and shall include the appropriate valves and any other equipment used in the handling, conditioning, and disposal of oil, gas, and water produced, including any water disposal pits or emergency pits. In those instances where pits are co-located, such pits may be shown in parentheses on the facility diagram
—Indicate which valve(s) shall be sealed and in what position during the production and sales phases and during the conduct of other production activities, i.e., circulating tanks, drawing off water, which may be shown by an attachment, if necessary
—Require as an addition, when describing co-located facilities operated by 2 different operators/lessees, a skeleton diagram of the co-located facility, showing only equipment. For co-located common storage facilities operated by 1 operator, one facility diagram shall be sufficient
—Be filed within 60 days of completion of a new facility or when existing facilities are modified or when a non-Federal facility is included in a Federally supervised unit agreement or communitization agreement
—Clearly identify the lease to which it applies and the location of the facility covered by quarter quarter section, section, township, and range or by a legal land description, with co-located facilities being identified by each lease and its facilities
—Clearly identify the site security plan covering the facility.
—Violations: Minor.
—Corrective Action: Prepare and/or furnish a complete and accurate facility diagram.
—Normal Abatement Period: 10 working days after notice.

IV. Variances from Minimum Standards

An operator may request the authorized officer to approve a variance from any of the minimum standards prescribed in section III hereof. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related minimum standard(s) are to be satisfied. The authorized officer, after considering all relevant factors, if appropriate, may approve the requested variance(s) if it is determined that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s).

ATTACHMENTS

I. Diagrams

II. Sections from 43 CFR Subparts 3163 and 3165 (Not included with Federal Register publication)

Site Facility Diagrams and Sealing of Valves

Introduction—1 & 2
Equipment and Valve Symbols—3
Line Symbols and Valve Identification—4

Diagrams	Identification	Sales Mode	
I-A	Lease Number NM—1234	Tank Gauge	5 & 6
I-B	Lease Number NM—1234	LACT	7 & 8
I-C	Able Shallow Unit	Tank Gauge	9 & 10
I-D	Able Shallow Unit	LACT	11 & 12
I-E	Lease Numbers W-2345 & W-6789	Tank Gauge	13-15
I-F	Lease Number C-1357	LACT & Tank Gauge	16 & 17
I-G	Lease Number M-2468	LACT	18 & 19
I-H	Able Sand Unit	Tank Gauge & Gauge Transfer.	20 & 21
I-I	Able Sand Unit	LACT & LACT Transfer	22 & 23

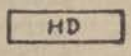
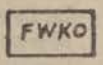
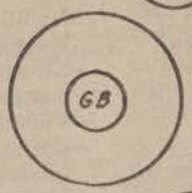
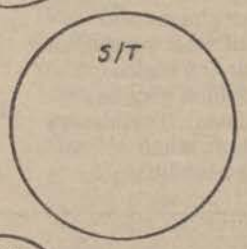
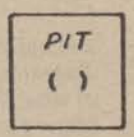
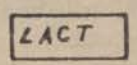
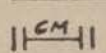
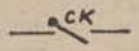
Site Facility Diagrams and Sealing of Valves

Introduction

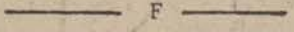
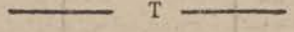
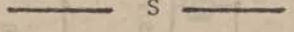
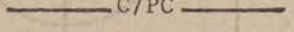
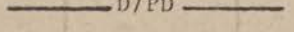
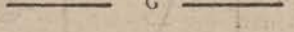
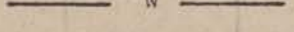
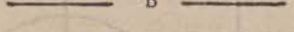
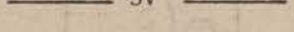
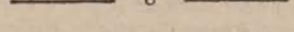
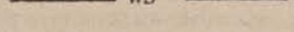
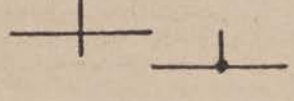
Attachment I is provided to both aid lessees/operators in determining what valves are considered to be "appropriate valves" subject to the seal requirements and aid in the preparation of facility diagrams. In making the determination of what is an "appropriate valve," the entire facility must be considered as a whole, including the size of the facility, the type of equipment, and the on-going activities at the facility. It is impossible to cover every type of situation that exists or could exist in conducting production activities and the following diagrams are representative of the sealing requirements contained in this Order and 43 CFR Part 3160.

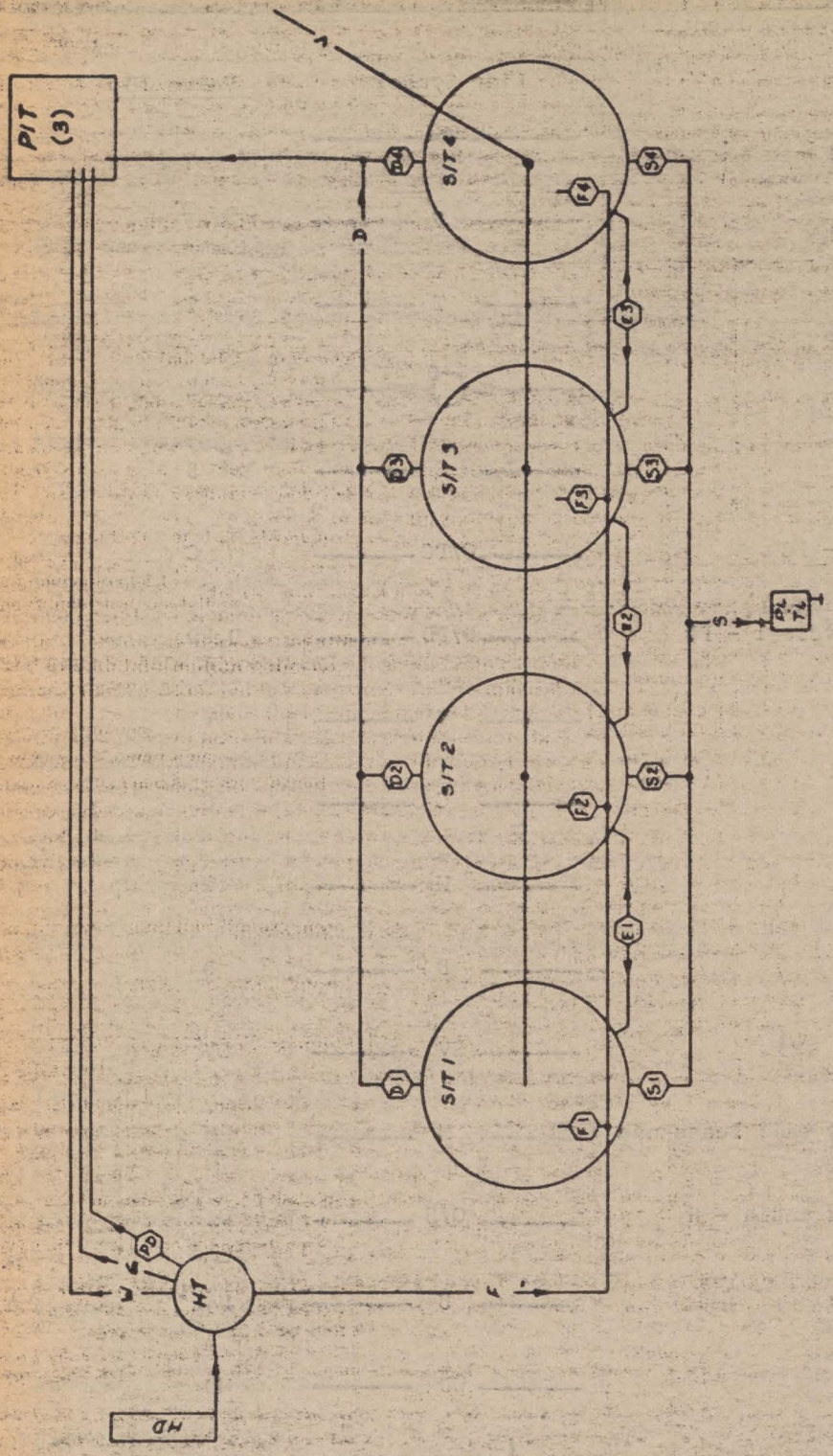
BILLING CODE 4310-84-M

Equipment and Valve Symbols

Item	
Header - HD	
Free water knockout - FWKO	
Line heater - LH; Steam generation facility - SGF	 
Separator - S	
Heater treater - HT	
Gun barrel or wash tank - GB	
Storage tank - S/T	
Tank: Water - W/T; Slop oil - SO/T; Surge - ST/T	
Tanks: Fuel oil - FO/T; power oil - PO/T	
Pit: Number of pits - ()	
Valve	
Automatic custody transfer unit - LACT	
Gas meter run - GM	
Connection: Pipeline - PL; Truck loading - TL	
Pump: Circulating - CP: Transfer - TP	
Check valve - CK	

Line Symbols and Valve Identification

Item	Line Symbol	Valve ID
Direction of flow		
Fill line		F
Test line		T
Equalizer/overflow line		E
Sales line		S
Circulating lines: tank - C; pit - PC		C
Drain line: tank - D; production vessel - PD		D,PD
Tank vent line		V
Gas line		G
Water line		W
Bad oil line (LACT)		B
Safety valve vent line		SV
Miscellaneous access line: royalty oil; lease use		M
Heating lines: contents - O; other media - H		O,H
Fuel line - U; power oil line - PO		U,P
Water disposal line		WD
Lines: not connected connected		
Portable well tester outlets		PT
Gas roll line		R



This lease is subject to the site security plan for Northwest New Mexico Operations. The plan is located at: Able Oil Company
212 Federal Blvd.
Farmington, NM

Able Oil Company
Lease: Federal - NM1234
Location: NE/4 NW/4 Sec. 4, T. 28 N., R. 13 W.

Diagram I-A

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Lease NM 1234

General sealing of valves, sales by tank gauging.

Production phase—All drain valves, D1 thru D4, and all sales valves, S1 thru S4, sealed closed.

Sales phase—The tank from which sales are being made will be isolated by sealing closed the drain valve, fill valve, and the equalizer valve(s) during sales.

Draining phase—The tank being drained will be isolated by sealing closed the sales valve, fill valve, equalizer valve(s), and the drain valves on the other tanks.

Example:

On going activity—Production going into tank S/T1, tank bottoms are being drained from tank S/T3, and sales are being made from tank S/T4.

Sealing of valves:

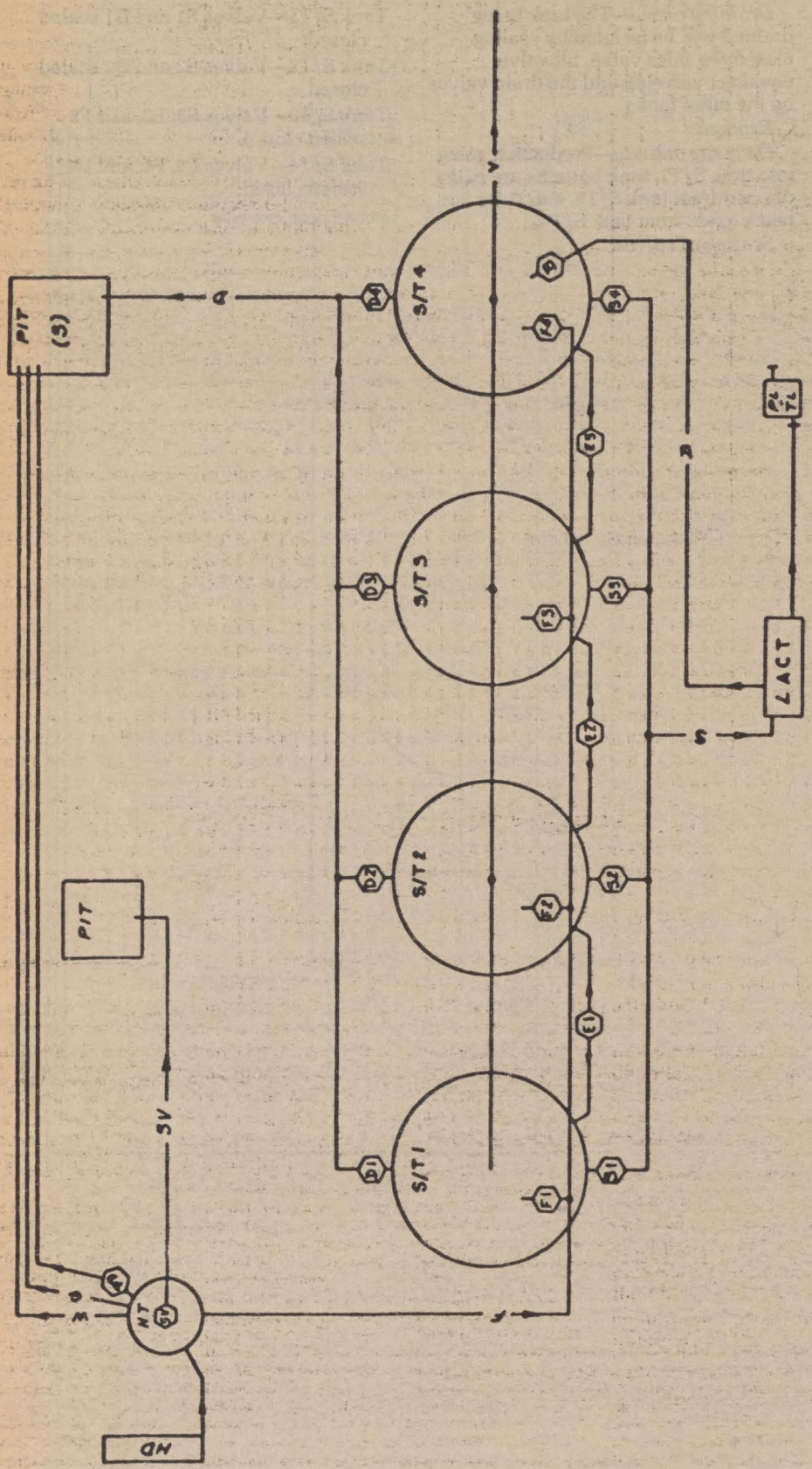
Tank S/T1—Valves S1 and D1 sealed closed.

Tank S/T2—Valves S2 and D2 sealed closed.

Tank S/T3—Valves S3, E2, and F3 sealed closed.

Tank S/T4—Valves E3, F4, and D4 sealed closed.

BILLING CODE 4310-84-M



This lease is subject to the site security plan for Northwest New Mexico Operations. The plan is located at: Able Oil Company 212 Federal Blvd. Farmington, NM

Able Oil Company
Lease: Federal - NM 1234
Location: NE/4 NW/4 Sec. 4, T. 28 N., R. 13 W.

Diagram I-B

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Lease NM 1234

General sealing of valves, sales by LACT.

Production phase—All drain valves D1 thru D4 sealed closed.

Sales phase—All drain valves D1 thru D4 sealed closed.

Draining activity—The tank being drained will be isolated by sealing closed the sales, fill and equalizer line valves, and the drain valves on the other three tanks.

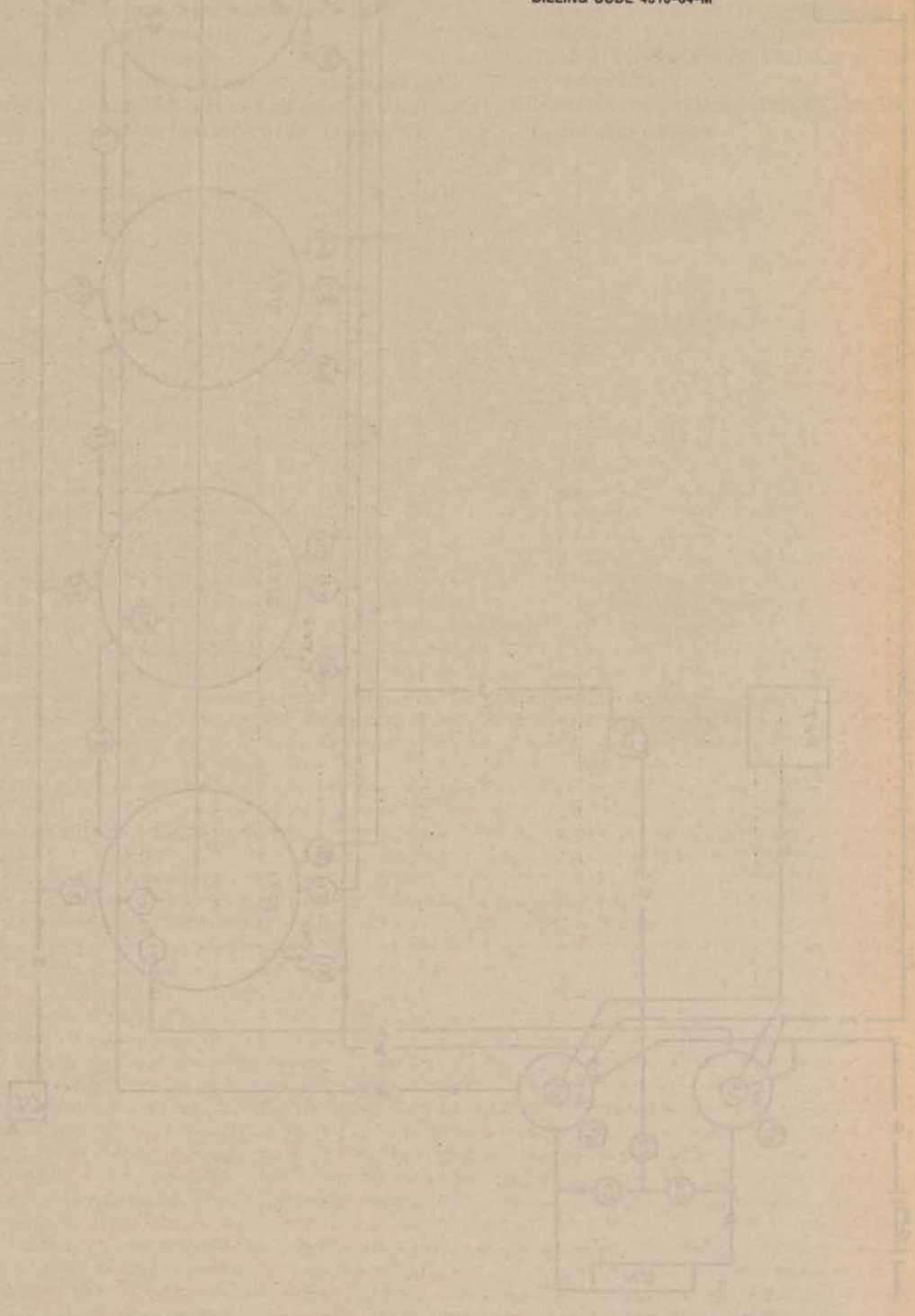
Examples:

On going activity—Production going into tank S/T1, tank bottoms are being drained from tank S/T3, and sales are being made from tank S/T4.

Sealing of valves:

Tank S/T1—Valve D1 sealed closed.
Tank S/T2—Valve D2 sealed closed.
Tank S/T3—Valves E2, E3, S3, and F3 sealed closed.
Tank S/T4—Valves D4 sealed closed.

BILLING CODE 4310-84-M



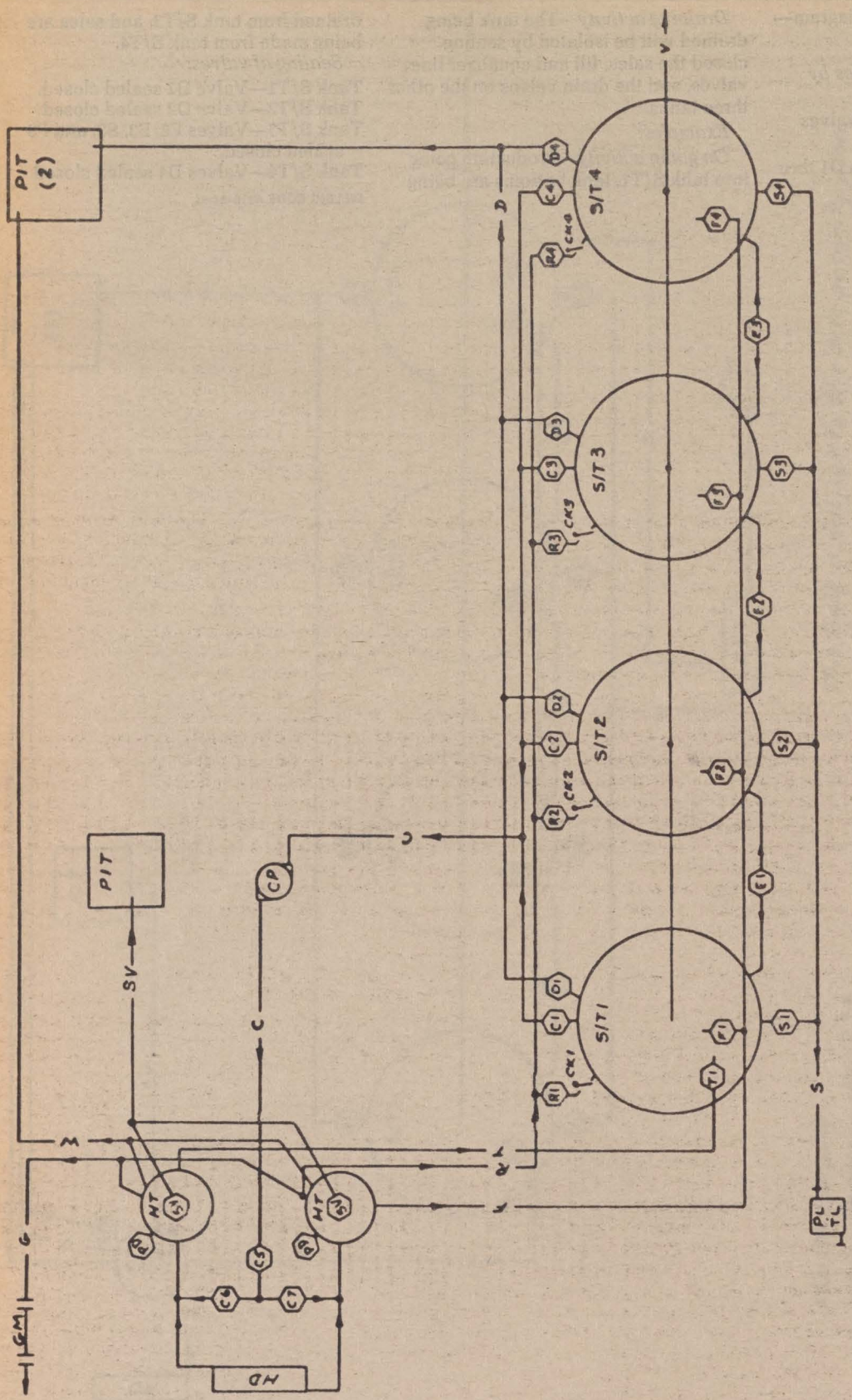


Diagram I-C

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Able Shallow Unit

General sealing of valves, sales by tank gauging.

Production phase—All drain valves, D1 thru D4, and all sales valves, S1 thru S4, sealed closed.

Sales phase—The tank from which sales are being made will be isolated by sealing closed the drain valve, circulating valve, fill valve(s), and equalizer valve(s) during sales.

Draining activity—The tank being drained will be isolated by sealing closed the sales valve, fill valve(s), circulating valve, equalizer valve(s), and the drain valves on the other three tanks.

Circulating activity—All drain and sales valves sealed closed.

Tank bottom roll-over activity—No seals required on the R1 thru R4 valves since check valves were used appropriately.

Example:

On going activity—One well on routine test and all other production is going into tank S/T2. Tank S/T3 bottoms are being circulated to the production heater-treater and sales are being made from tank S/T4.

Sealing of valves:

Tank S/T1—Valves D1 and S1 sealed closed.

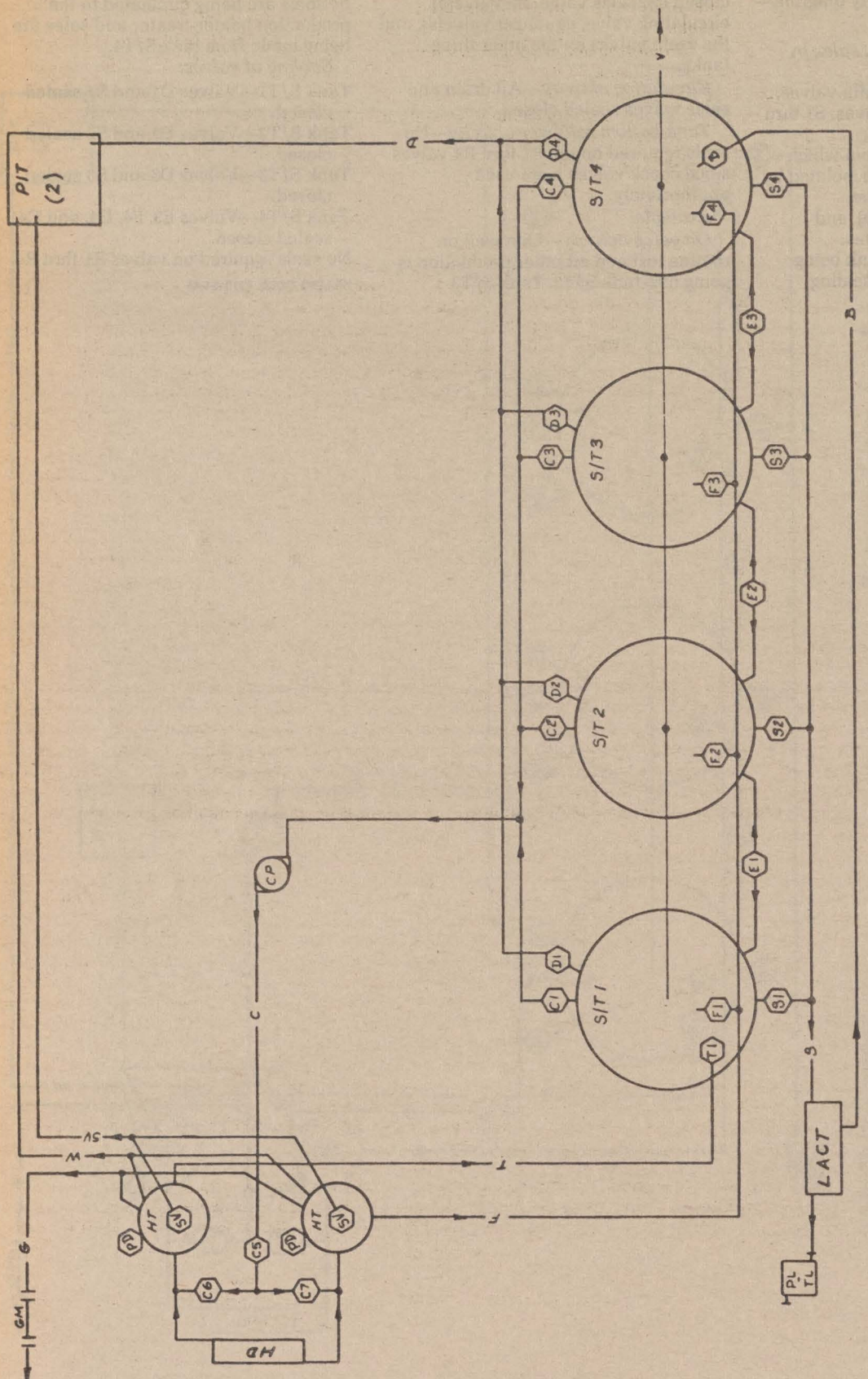
Tank S/T2—Valves D1 and S2 sealed closed.

Tank S/T3—Valves D3 and S3 sealed closed.

Tank S/T4—Valves E3, F4, D4, and C4 sealed closed.

No seals required on valves R1 thru R4.

BILLING CODE 4310-84-M



This Unit is subject to the site security plan for NORTHWEST NEW MEXICO OPERATIONS. The plan is located at: Able Oil Company 212 Federal Bld. Farmington, NM

Able Oil Company
Lease: Able Shallow Unit
Location: NW/4 SE/4 Sec. 25, T. 28N., R. 13W.

Diagram I-D

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Able Shallow Unit

General sealing of valves, sales by LACT.

Production phase—All drain valves D1 thru D4 sealed closed.

Sales phase—All drain valves D1 thru D4 sealed closed.

Draining activity—The tank being drained will be isolated by sealing closed the sales valve, fill valve(s), circulating valve, equalizer valve(s), and the drain valves on the other three tanks.

Circulating activity—All drain valves sealed closed.

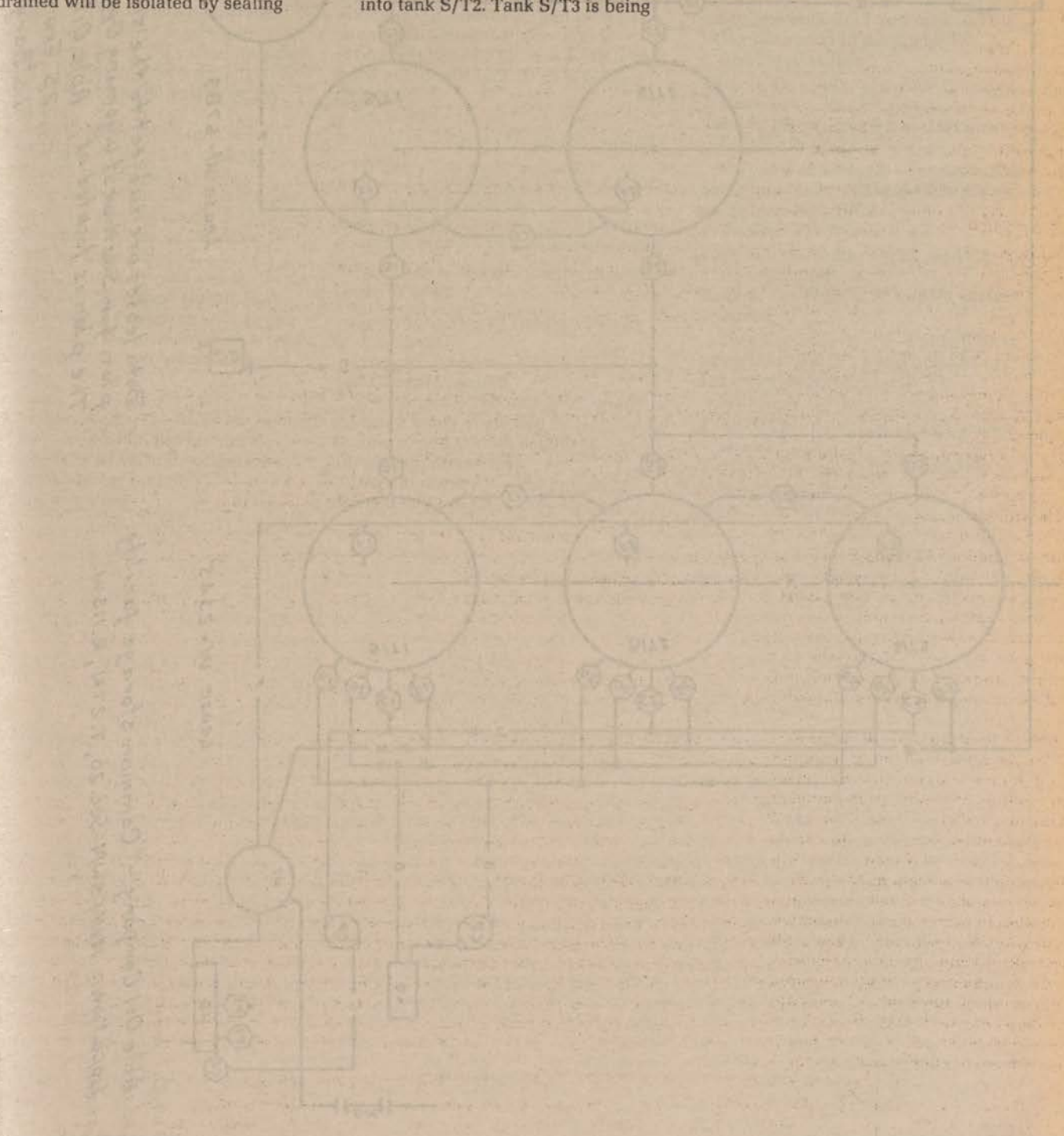
Example:

On going activity—One well routine test and all other production is going into tank S/T2. Tank S/T3 is being circulated to the production treater and sales are being made from tank S/T4.

Sealing of valves:

Tank S/T1—Valve D1 sealed closed.
Tank S/T2—Valve D2 sealed closed.
Tank S/T3—Valve D3 sealed closed.
Tank S/T4—Valve D4 sealed closed.

BILLING CODE 4310-84-M



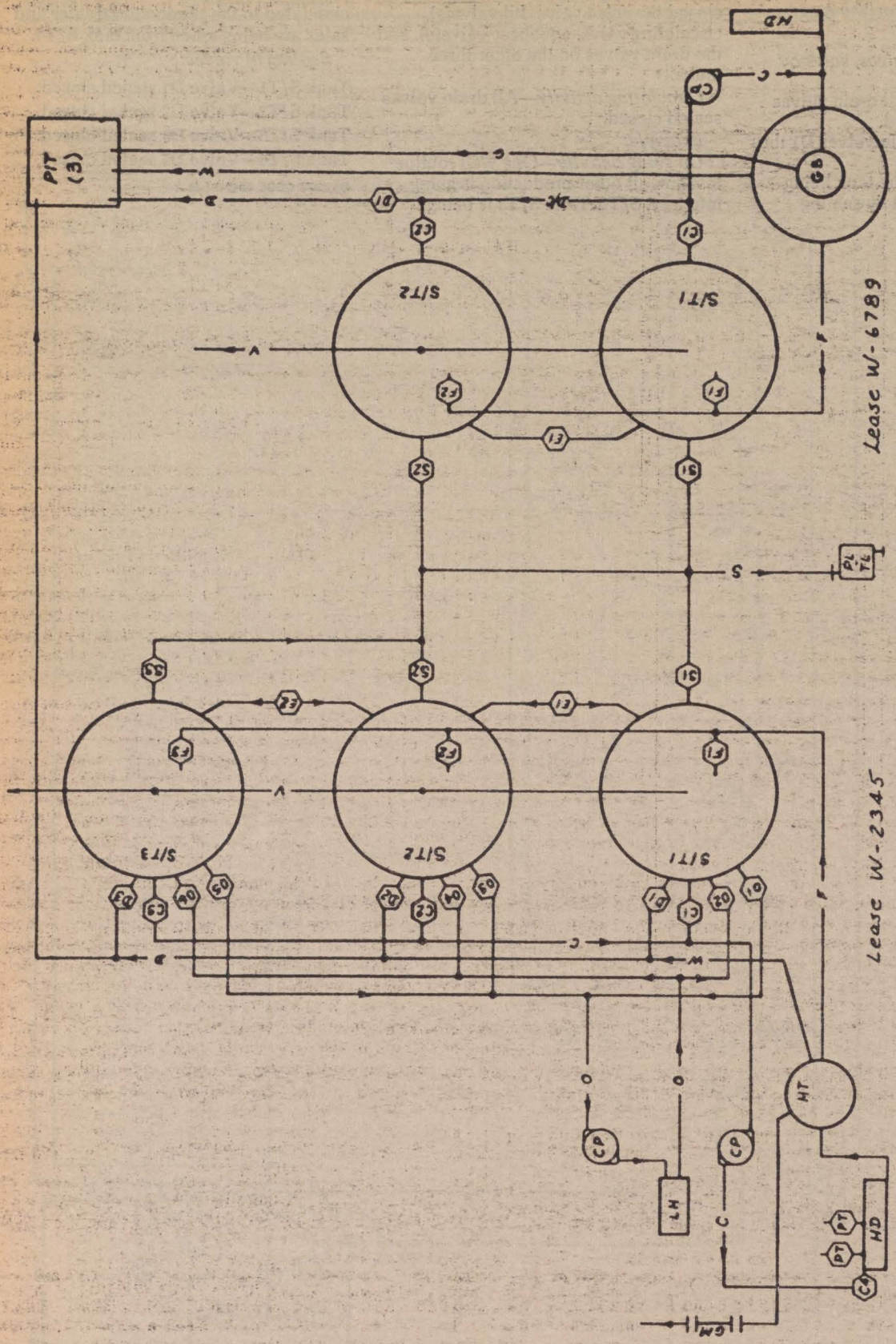


Diagram I-E

BILLING CODE 4310-84

Common Storage Facility

Attachment to the site facility diagram—Lease W 2345

General sealing of valves, sales by tank gauging.

Production phase—All valves D1 thru D3 and S1 thru S3 sealed closed.

Sales phase—The tank from which sales are being made will be isolated by sealing closed all lines entering or leaving the tank, i.e., fill valve, equalizer valve(s), circulating valve, drain valve, and the inlet and outlet valves on the heating lines.

Draining activity—The tank being drained will be isolated by sealing closed its fill valves, sales valve, circulating valve, equalizer valve(s), and the inlet and outlet valves on the heating lines. The drain valves on the other two tanks will be sealed closed.

Circulating activity—Valves D1 thru D3 and S1 thru S3 sealed closed. Both PT valves sealed closed, as well as any other valves on the header which would provide access to the production being circulated.

Example:

On going activity (1)—Sales are being made from tank S/T1, production is going into tank S/T3, and bottoms are being drained from tank S/T2.

Sealing of valves:

Tank S/T1—Valves F1, O1, O2, C1, E1, and D1 sealed closed.

Tank S/T2—Valves F2, O3, O4, C2, E2, and S2 sealed closed.

Tank S/T3—Valves S3, and D3 sealed closed.

On going activity (2)—Sales have been completed at tank S/T1 and draining activities have been completed at tank S/T2. Valves S1 and D2 have been sealed closed. Production is diverted to tank S/T1, tank S/T2 is in a sales mode, and tank S/T3 is being circulated.

Sealing of valves:

Tank S/T1—Valves D1 and S1, sealed closed.

Tank S/T2—Valves F2, O3, O4, C2, D2, E1, and E2 sealed closed.

Tank S/T3—Valves D3, and S3 sealed closed. Both PT valve sealed closed.

Attachment to the site facility diagram—Lease W 6789

General sealing of valves, sales by tank gauging.

Production phase—Valves S1, S2, C1 and C2 sealed closed.

Sales phase—The tank from which sales are being made will be isolated by sealing closed the fill, equalizer, circulating/drain valve.

Draining activity—The tank being drained will be isolated by sealing closed its fill valve, equalizer valve, and sales valve. Additionally, the circulating/drain valve on the other tank will be sealed closed.

Circulating activity—Valves S1, S2, D1, and the C valve on the other tank sealed closed.

Example:

On going activity (1)—Production is going into tank S/T1 and tank S/T2 is being circulated to the gunbarrel.

Sealing of valves:

Tank S/T1—Valves S1 and C1 sealed closed.

Tank S/T2—Valves S2, and D1 must be sealed closed.

On going activity (2)—Production is going into tank S/T2 and sales are on going from tank S/T1.

Sealing of valves:

Tank S/T1—Valves F1, E1, and C1 sealed closed.

Tank S/T2—Valves S2 and C2 sealed closed.

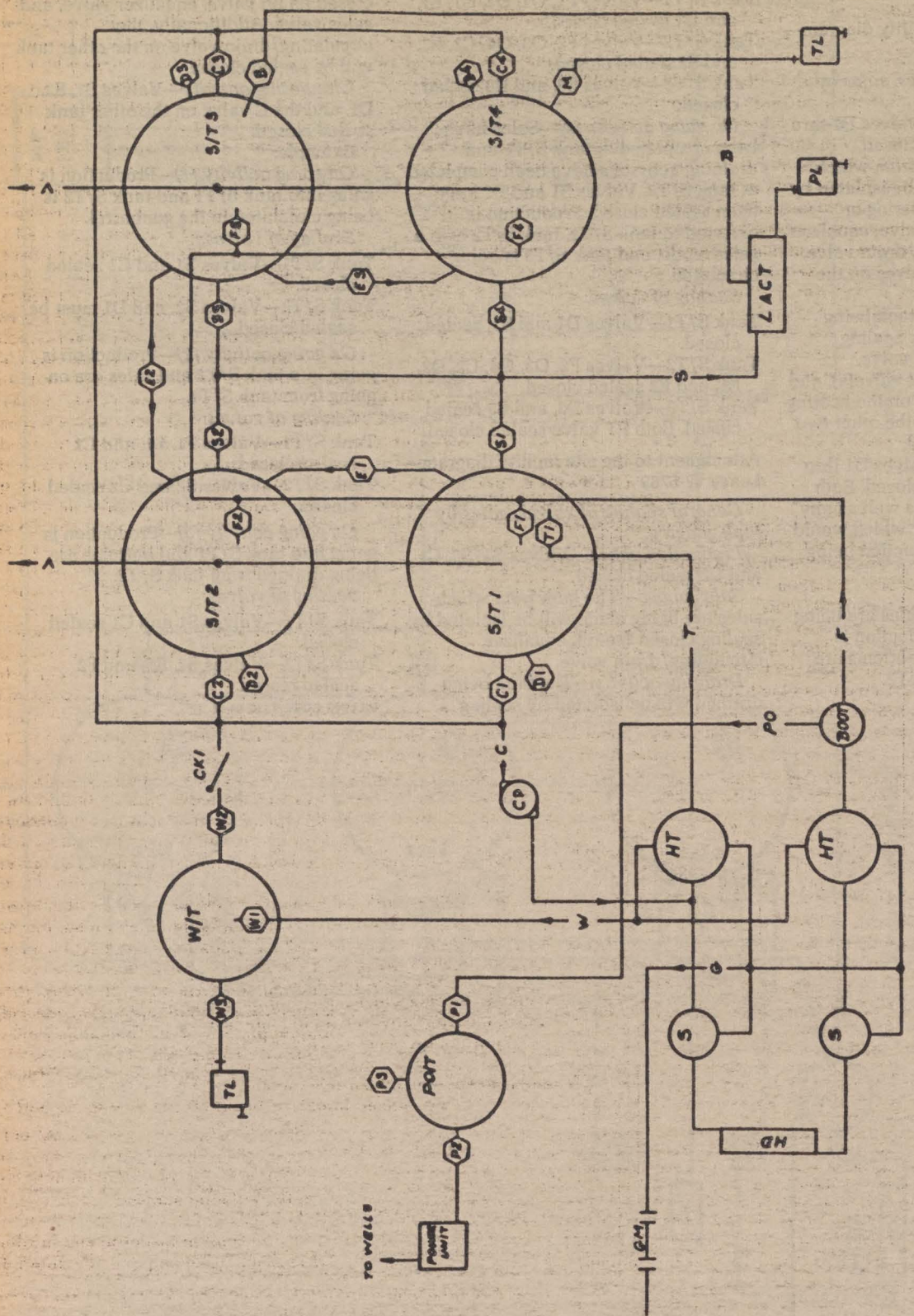
On going activity (3)—Production is going into tank S/T1 and bottoms are being drained from tank S/T2.

Sealing of valves:

Tank S/T1—Valves S1 and C1 sealed closed.

Tank S/T2—Valves S2, E1, and F2 sealed closed.

BILLING CODE 4310-84-M



This plan is subject to the site security plan for the Coal Oil field. The plan is located at: Able Oil Company
100 First Street
Durango, CO

Able Oil Company
Lease: Federal C-1357
Location: Center NE/4 Sec. 17, T. 32 N., R. 13 W.

Diagram I-F

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Lease C 1357

General sealing of valves, sales by LACT and tank gauging.

Production phase—Valves D1 thru D4 and M sealed closed.

Sales phase (LACT)—Valves D1 thru D4 and M sealed closed.

Withdrawal thru Valve M—Valves S4, F4, E3, D4 and C4 sealed closed.

Circulating activity:

Valves D1 thru D4 and M sealed closed.

For all of the above activities valve P3 on tank PO/T will be sealed closed.

Example:

On going activity (1)—Production is going into tank S/T3, oil is being removed from tank S/T4 thru valve M, sales are being made from tank S/T1, tank S/T2 is being circulated, and bottoms are being drawn off from tank PO/T.

Sealing of valves:

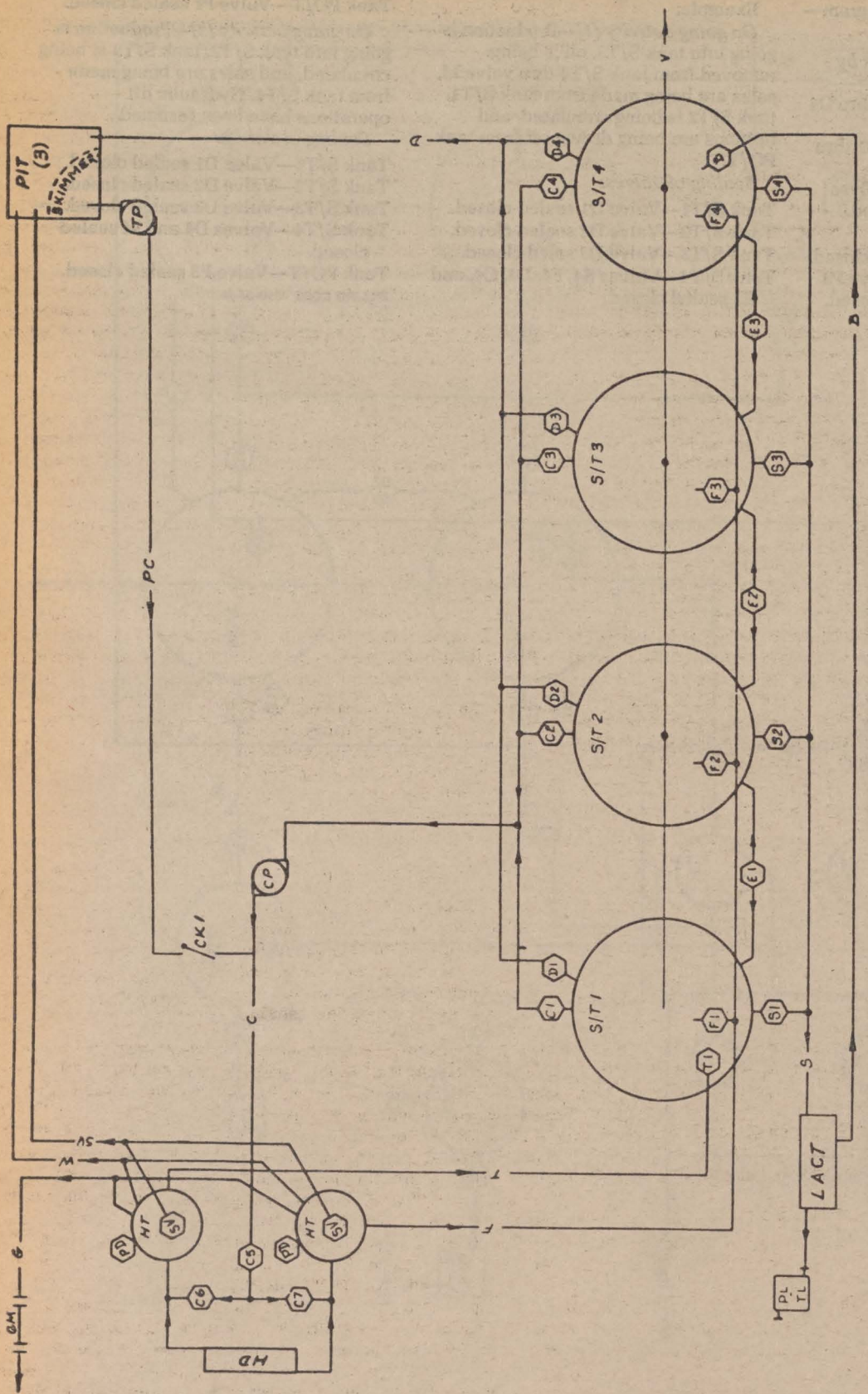
Tank S/T1—Valve D1 sealed closed.
Tank S/T2—Valve D2 sealed closed.
Tank S/T3—Valve D3 saled closed.
Tank S/T4—Valves S4, F4, D4, C4, and E3 sealed closed.
Tank PO/T—Valve P1 sealed closed.

On going activity (2)—Production is going into tank S/T2, tank S/T3 is being circulated, and sales are being made from tank S/T4. Hydraulic lift operations have been resumed.

Sealing of valves:

Tank S/T1—Valve D1 sealed closed.
Tank S/T2—Valve D2 sealed closed.
Tank S/T3—Valve D3 sealed closed.
Tank S/T4—Valves D4 and M sealed closed.
Tank PO/T—Valve P3 sealed closed.

BILLING CODE 4310-84-M



This lease is subject to the site security plan for the CS oil Field. The plan is located at: Able Oil Company 713 Center Street Cut bank, MT

Able Oil Company
Lease: Federal M-2468
Location: SE/4 SE/4 Sec. 7, T. 35N., R. 5 W.

Diagram I-G

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Lease M 2468

General sealing of valves, sales by LACT.

Production phase—Valves D1 thru D4 sealed closed.

Sales phase—Valves D1 thru D4 sealed closed.

Draining Activity—The tank being drained will be isolated by sealing closed the sales valve, fill valve(s), circulating valve, equalizer valve(s), and the drain valves on the other three tanks.

Circulating activity—All drain valves sealed closed.

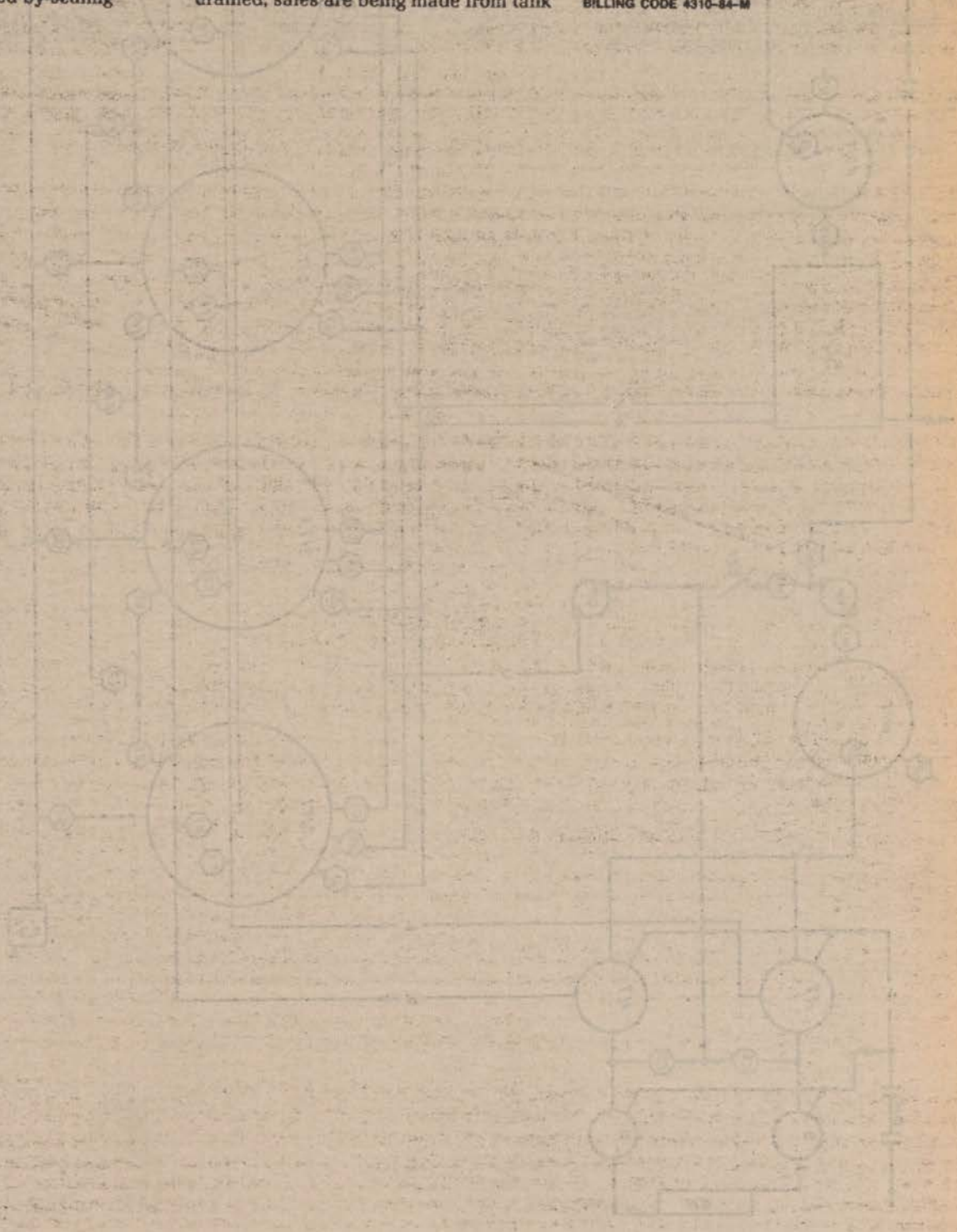
Example:

On going activity—Production is going into tank S/T1, tank S/T2 is being drained, sales are being made from tank S/T3, and tank S/T4 is being circulated to the test treater. Pit skimming activity being conducted.

Sealing of valves:

Tank S/T1—Valve D1 sealed closed.
Tank S/T2—Valves E1, E2, S2, F2, and C2 sealed closed.
Tank S/T3—Valve D3 sealed closed.
Tank S/T4—Valve D4 sealed closed.

BILLING CODE 4310-84-M



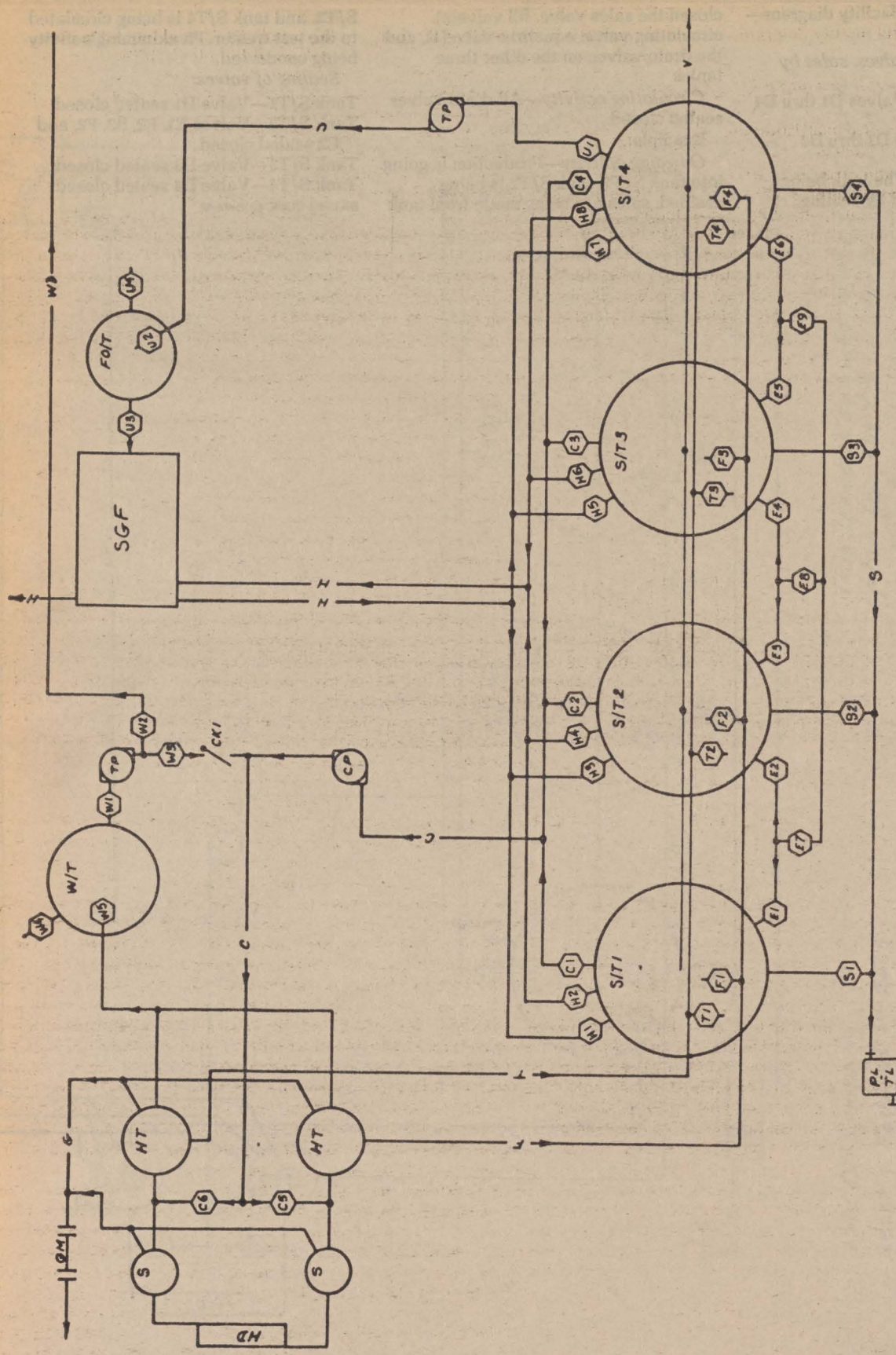


Diagram I-H

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Able Sand Unit

General sealing of valves, sales and transfer by tank gauging.

Production phase.—Valves S1 thru S4 and U1 and U4 sealed closed.

Sales phase—The tank from which sales would be made would be completely isolated by sealing the fill, test, equalizer(s), and circulating valves, and if appropriate, valve U1. All other sales valves sealed closed.

Circulating activity—Valves S1 thru S4 and U1 and U4 sealed closed.

Fuel oil delivery—Valves U4, C4, T4, F4, E6 and S1 thru S4 sealed closed.

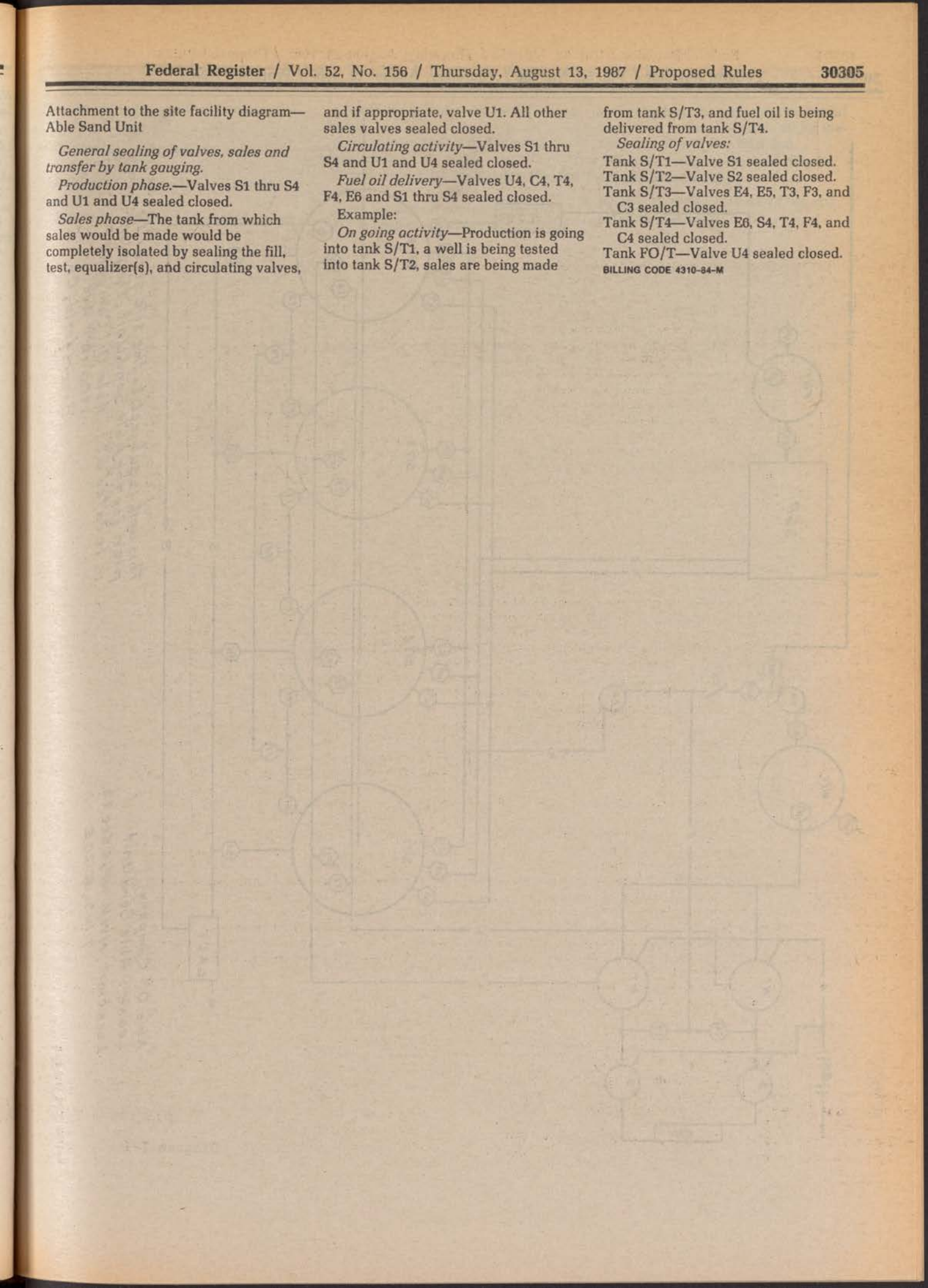
Example:

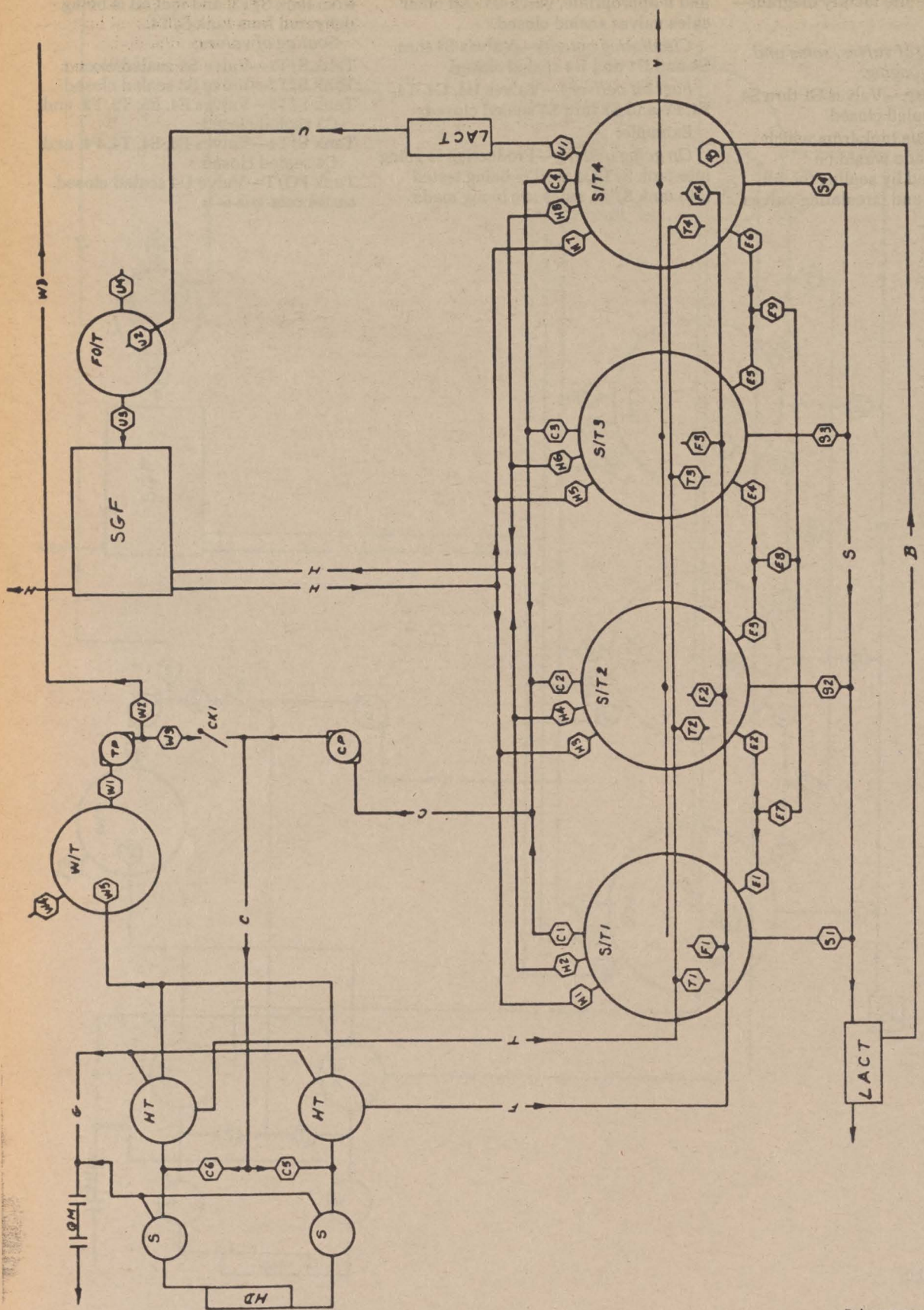
On going activity—Production is going into tank S/T1, a well is being tested into tank S/T2, sales are being made from tank S/T3, and fuel oil is being delivered from tank S/T4.

Sealing of valves:

Tank S/T1—Valve S1 sealed closed.
Tank S/T2—Valve S2 sealed closed.
Tank S/T3—Valves E4, E5, T3, F3, and C3 sealed closed.
Tank S/T4—Valves E6, S4, T4, F4, and C4 sealed closed.
Tank FO/T—Valve U4 sealed closed.

BILLING CODE 4310-84-M





This unit is subject to the site security plan for the Able Sand Unit. The plan is located at: Able Oil Company 1700 18th Ave. Bakersfield, CA

Able Oil Company
Lease: Able Sand Unit
Location: NW/4 NE/4 Sec. 12, T. 16 S., R. 20 E.

Diagram I-I

BILLING CODE 4310-84-C

Attachment to the site facility diagram—Able Sand Unit

General sealing of valves, sales and transfer by LACT.

Production phase—Valve U4 sealed closed.

Sales phase—Valve U4 sealed closed.

Circulating activity—Valve U4 sealed closed.

Fuel delivery to FO/T—Valve U4 sealed closed.

Circulate tank W/T—Valve U4 sealed closed.

Since the fuel oil contained in tank FO/T is used on the lease and such use is royalty free, the tank must be sealed to prevent removal of crude oil for the use other than it was intended.

No other valves require sealing for any phase or activity.

[FR Doc. 87-18497 Filed 8-12-87; 8:45 am]
BILLING CODE 4310-84-M

federal register

Thursday
August 13, 1987

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 3160

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 2 Drilling Operations; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[AA-630-87-4111-02]

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 2, Drilling Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would provide for the issuance of Onshore Oil and Gas Order No. 2 under the provisions of 43 CFR Subpart 3164. This order implements and supplements the requirements found in 43 CFR Part 3160 as they apply to drilling operations. Specifically, those requirements found at § 3162.3–1; 3162.3–4; 3162.4–1; 3162.4–2; 3162.5–1; 3162.5–2; and 3162.5–3 and at Subpart 3163. This Order would address the Bureau of Land Management's uniform national standards for the minimum levels of performance expected from lessees and operators when conducting drilling operations on Federal and Indian lands (except Osage Tribe). The Order also would detail enforcement actions and would prescribe the manner in which variances may be obtained from specific standards. The Bureau's specific existing internal guidelines on the subject of drilling operations have never been formalized in a Notice to Lessees and Operators, thus this Order has no direct predecessor.

DATE: Comments should be submitted by October 13, 1987. Comments received or postmarked after the above date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Howard A. Lemm, (801) 524–3029, or Stephen Spector, (202) 653–2147, or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: Section 3164.1 of 43 CFR Part 3160 provides for the issuance of necessary Onshore Oil and Gas Orders when needed to implement and supplement the regulations in Part 3160 of this Title. All Orders will be promulgated through the rulemaking process and, when issued in final form, will apply on a nationwide basis. A table is included in § 3164.1 of the existing regulations which shows the existing, and if applicable, former Orders. This proposed rulemaking would result in another such Order.

This Order would establish specific and detailed requirements along with minimum standards covering well control during drilling, casing and cementing, drilling mud and the circulating system, drill stem testing, special drilling operations, related surface use, and the abandonment of drilling operations. These proposed operation standards would be used in conjunction with the broad requirements of Part 3160 and Onshore Oil and Gas Order No. 1. The proposed Order also would classify all violations as minor or major. In addition, the Order would establish the process for initially classifying a violation as minor and reissuing the violation as major if not corrected and continued drilling has changed the adverse impact.

This Order sets standards which have been developed to be minimums for drilling operations at specific pressures under differing conditions and in different parts of the country. It is recognized that under some conditions, additional requirements will be imposed routinely or general variances to specific requirements will be granted in approval documents or on a field basis. In developing these standards, the committee responsible for the preparation of this drilling order has relied on existing standards, such as those prepared by the American Petroleum Institute, the Texas Railroad Commission, the California Department of Oil and Gas, the Wyoming Oil and Gas Commission, and representative standards routinely used by industry in its drilling operations.

The principal authors of this proposed rulemaking are Howard Lemm, Utah State Office, Carl Budd, Rock Springs District Office, Wyoming, Hal Stoops, Bakersfield District Office, California, Bob Kent, Washington Office, assisted by the Onshore Orders Task Group, the staff of the Division of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The proposed rulemaking will have no adverse economic effects since its requirements reflect the operating practices currently followed by prudent operators when conducting drilling operations on leases under the jurisdiction of the Bureau of Land Management. It may provide a beneficial economic effect in that industry is less likely to be subject to assessments or penalties resulting from violations and/or the requirement to undertake costly remedial actions if it has a better understanding of this Bureau's requirements relating to drilling operations. The major requirements of the Order contained in this proposed rulemaking are essentially those which have been required by the Department of the Interior over the years and the burden imposed would be the same for all lessees and operators who are drilling on lands under the jurisdiction of this Bureau, regardless of size.

The proposed Order will not affect current information collection and recordkeeping requirements which have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0134 and 1004–0136.

List of Subjects 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting and recordkeeping requirements.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of May 21, 1930 (30 U.S.C. 301–306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102 et seq.), it is proposed to amend Part 3160, Group 3100, Subchapter C, Chapter

II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3160—[AMENDED]

1. The authority citation for Part 3160 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 183 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of May 21, 1930 (30 U.S.C. 301–306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396g), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. 441 (43 U.S.C. 1457), See also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (42 U.S.C. 6508), the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102 et seq.).

2. Section 3164.1(b) is amended by adding the following entry to the table which is part of § 3164.1(b):

§ 3164.1 Onshore oil and gas orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	Federal Register reference	Supersedes
1	Approval of operations	November 12, 1983	48 FR 46916 and 48 FR 56226	NTL-6
2	Drilling operations			None

Note.—Numbers will be assigned by the Washington Office, Bureau of Land Management, to additional Orders as they are prepared for publication and added to this table.

James E. Cason,

Acting Assistant Secretary of the Interior.

June 29, 1987.

Note.—This appendix is published for information only and will not appear in the Code of Federal Regulations.

Appendix—Text of Oil and Gas Order No. 2.

Onshore Oil and Gas Order No. 2

Drilling Operations on Federal and Indian Oil and Gas Leases

I. Introduction.
A. Authority.
B. Purpose.
C. Scope.
D. General.
II. Definitions.
III. Requirements.
A. Well Control Requirements.
B. Casing and Cementing Requirements.
C. Mud Program Requirements.
D. Drill Stem Testing Requirements.
E. Special Drilling Operations.
F. Surface Use.
G. Drilling Abandonment.
IV. Variances from Minimum Standards.
Attachments.
I. Diagrams of Choke Manifold Requirements.
II. Sections from 43 CFR Subparts 3163 and 3165.

Onshore Oil and Gas Order No. 2

Drilling Operations on Federal and Indian Oil and Gas Leases

I. Introduction

A. Authority

This order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian oil and leases which have been, or may hereafter be, issued.

Specific authority for the provisions contained in this Order is found at: § 3162.3–1 *Drilling Applications and Plans;* § 3162.3–4 *Well Abandonment;* § 3162.4–1 *Well Records and Reports;* § 3162.4–3 *Samples, Tests, and Surveys;* § 3162.5–1 *Environmental Obligations;* § 3162.5–2 *Control of Wells;* § 3162.5–2(a) *Drilling Wells;* § 3162.5–3 *Safety Precautions;* and Supart 3163 Noncompliance and Assessment.

B. Purpose

This onshore Order details the Bureau's uniform national standards for the minimum levels of performance expected from lessees and operators when conducting drilling operations on Federal and Indian lands (except Osage Tribe) and for abandonment immediately following drilling. The purpose also is to identify the enforcement actions that will result when violations of the minimum standards are found, and when those violations are not abated in a timely manner.

C. Scope

This Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas leases.

D. General

1. If an operator chooses to use higher rated equipment than that authorized in the Application for Permit to Drill (APD), testing procedures shall apply to the approved working pressures, not the upgraded higher working pressures.

2. Some situations may exist either on a well-by-well or field-wide basis whereby it is commonly accepted practice to vary a particular minimum standard(s) established in this Order. This situation may be resolved by requesting a variance (See section IV of this Order), by the inclusion of a stipulation to the APD, or by the issuance of a Notice to Lessees and Operators (NTL) by the appropriate BLM office.

3. When a violation is discovered, and if it does not cause or threaten immediate substantial and adverse impact on public health and safety, the environment, production accountability or royalty income, it will be classified as minor. The violation may be reissued as a major violation if not corrected during the abatement period and continued drilling has changed the adverse impact of the violation so that it meets the specific definition of a major violation.

4. This Onshore Order is not intended to circumvent the reporting requirements or compliance aspects that may be stated elsewhere in Existing NTL's, Onshore Orders, etc. A lessee's compliance with the requirements of the regulations in this Part shall not relieve the lessee of the obligation to comply with other applicable laws and regulations in accordance with 43 CFR 3162.5–1(c). Lessee's should give special attention to the automatic assessment provisions in 43 CFR 3163.1(b).

5. This Order is based upon the assumption that operations have been approved in accordance with 43 CFR Part 3160 and Onshore Oil and Gas Order No. 1. Failure to obtain approval prior to commencement of drilling or related operations shall subject the

operator to immediate assessment under 43 CFR 3163.1(b)(2).

II. Definitions.

A. Authorized Representative means any person or entity authorized to perform the duties prescribed (See 43 CFR 3160.0–5).

B. Drilling Spool means a connection component with both ends either flanged or hubbed. It shall have an internal diameter at least equal to the bore of the casing and have smaller side outlets for connecting auxiliary lines.

C. Freeboard means the height as measured from the top of fluid level to the top of the berm of the pit.

D. Function Test means activating equipment without subjecting it to pressure.

E. H_2S Trim means any material appropriate to withstand the corrosive effects of an H_2S environment.

F. Blooie Line means a discharge line used in conjunction with a rotating head.

G. High Pressure Zone means a zone which has either pressures above the normal gradient for an area or which exceeds the designed specifications for a particular type of equipment.

H. Isolating Fresh Water and Mineral Resources means the use of cement or other approved medium to protect, separate, and segregate such resources.

I. Lease means any contract, profit-share agreement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas (See 43 CFR 3160.0–5).

J. Lessee means that party authorized by or through a lease or an approved assignment thereof, to explore for, develop and produce oil and gas on the lease site in accordance with the lease terms, regulations, and law. For convience of reference throughout this Order, the term lessee also refers to and includes the owners of approved operating rights and designated operators (See 43 CFR 3160.0–5).

K. Manual Locking Device means any manually activated device, such as hand wheels, etc., that is used for the purpose of locking the preventer in the closed position.

L. Mud for Plugging Purposes means a slurry of bentonite, water, and additives needed to achieve the desired weight.

M. Neat Cement means an appropriate American Petroleum Institute (API) oil well cement without volume extenders and mixed in accordance with API standards so that free water does not exceed 1.4 percent (of volume).

N. Prompt Correction means the authorized officer has the discretion to decide in each particular situation whether or not drilling can proceed while the prescribed corrective action is performed or whether drilling shall be suspended until the corrective action is completed.

O. Precharge Pressure means the nitrogen pressure remaining in the accumulator after all of the hydraulic fluid has been expelled from beneath the movable barrier.

P. Tagging the Plug means running in the hole with tubing or drill pipe and placing the weight, not to exceed 15,000 pounds, of that string on the plug. Other methods of tagging the plug may be approved by the authorized officer.

Q. Fresh Water means water containing not more than 1,000 parts per million (ppm) of total dissolved solids, provided that such water does not contain objectionable levels of any constituent that is toxic to animal, plant, or acquatic life, unless otherwise specified in applicable notices or orders (See 43 CFR 3160.0–5).

R. Make–up Water means water used in mixing slurry for cement jobs and plugging operations, and shall be compatible with the cement constituents being used.

S. Usable Water means generally those waters containing up to 10,000 ppm of total dissolved solids (See 40 CFR 144.3).

T. 2M, 3M, 5M, 10M and 15M means the pressure rating used for equipment with a working pressure rating of the equivalent thousand pounds per square inch (psi)(2M = 2,000 psi, 3M = 3,000 psi, etc.).

U. Targeted Tee or Turn means a fitting used in pressure piping in which a bull plug or blind flange is installed at the end of a tee or cross, opposite the fluid entry arm, to change the direction of flow and to prevent erosion.

V. Test Plug (Boll Weevil Plug) means a tool designed to seal the well bore immediately beneath the blowout preventer (BOP) stack, which allows high-pressure testing of the stack and auxiliary equipment without the risk of pressure damage to the casing or to exposed formations.

W. Weep Hole means a small hole that allows pressure to bleed off through the metal plate used in covering well bores after abandonment operations.

X. Exploratory Well means any well drilled either outside a radius of 2 miles from established production or which penetrates to previously undrilled formations (commonly referred to as "wildcat well").

III. Requirements

A. Well Control Requirements

1. Blowout preventer (BOP) and related equipment (BOPE) shall be installed, used, maintained, and tested in a manner necessary to assure well control and shall be in place and operational prior to drilling the surface casing shoe unless otherwise approved by the APD. Commencement of drilling without a BOP installed, unless otherwise approved, shall subject the operator to immediate assessment under 43 CFR 3163.1(b)(1). The BOP and related control equipment shall be suitable for operations in those areas which are subject to sub-freezing conditions. The BOPE shall be based on known or anticipated sub-surface pressures, geologic conditions, accepted engineering practice, and surface environment. Item number 7 of the 8 point plan in the APD specifically addresses expected pressures. The working pressure of all BOPE shall exceed the anticipated surface pressure to which it may be subjected, assuming no fluid (except gas) in the hole.

2. The gravity of the violation for many of the well control minimum standards listed below are shown as minor. However, very short abatement periods in this Order are often specified in recognition that by continuing to drill, the violation which was originally determined to be of a minor nature may cause or threaten immediate, substantial and adverse impact on public health and safety, the environment, production accountability, or royalty income, which would require its reclassification as a major violation.

a. *Minimum standards and enforcement provisions for well control equipment.* i. A device shall be installed at the surface that is capable of complete closure of the well bore. The device shall be closed whenever the well is unattended.

Violation: Major.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: Prompt correction required.

ii. 2M system:

—Annular preventer or double ram with blind and pipe rams*

—Kill line (2 inch minimum)

—1 kill line valve (2 inch minimum)

—1 choke line valve

—2 chokes (refer to diagram in Attachment 1)

—Upper kelly cock valve with handle available

—Safety valve and subs to fit all drill strings in use

—Pressure gauge on choke manifold

—2 inch minimum choke line
—Fill-up line above the uppermost preventer.
Violation: Minor (all items unless marked by asterisk).
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.
*Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

iii. 3M system:
—Annular preventers*
—Double ram with blind rams and pipe rams*
—Drilling spool with side outlet connection 2 inch by 3 inch minimum*
—Kill line (2 inch minimum)
—A minimum of 2 choke line valves (3 inch minimum)*
—3 inch diameter choke line
—2 kill line valves and a check valve (2 inch minimum)*
—2 chokes (refer to diagram in Attachment 1)
—Pressure gauge on choke manifold
—Upper kelly cock valve with handle available
—Safety valve and subs to fit all drill strings in use
—All connections subjected to well pressure shall be flanged, welded, or clamped*
—Fill-up line above the uppermost preventer.
Violation: Minor (all items unless marked by asterisk).
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.
*Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

iv. 5M system:
—Annular preventer*
—Pipe ram, blind ram, and as conditions warrant, such as pressures reaching or exceeding working pressures of the system, another pipe ram shall also be required* (a variable ram also may be substituted for use with a tapered drill string)
—Drilling spool with side outlet connection (2 by 3 inch minimum)*
—3 inch diameter choke line
—2 choke line valves (3 inch minimum)*
—Kill line (2 inch minimum)
—2 chokes with 1 remotely controlled from rig floor (refer to diagram in Attachment 1)
—2 kill line values and a check valve (2 inch minimum)*
—Upper kelly cock valve with handle available
—When the expected pressures approach working pressure of the system, 1 remote kill line tested to stack pressure (which shall run to the outer edge of the substructure and be unobstructed)
—Lower kelly cock valve with handle available
—Safety valve(s) and subs to fit all strings of drill pipe in use
—Inside BOP or float sub available
—Pressure gauge on choke manifold
—All connections subjected to well pressure shall be flanged, welded, or clamped*
—Fill-up line above the uppermost preventer.
Violation: Minor (all items unless marked by asterisk).
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.
*Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

v. 10M & 15M system:
—Rotating head shall be required if conditions warrant*
—Annular preventer*
—2 pipe rams*
—Blind rams*
—Drilling spool with side outlet connection (2 by 3 inch minimum)*
—3 inch choke line*
—2 kill line valves (2 inch minimum) and check valve*
—Remote kill line (2 inch minimum) shall run to the outer edge of the substructure and be unobstructed
—Manual and hydraulic choke line valves (3 inch minimum)*
—3 chokes, 1 being remotely controlled (refer to diagram in Attachment 1)
—Pressure gauge on choke manifold
—Upper kelly cock valve with handle available
—Lower kelly cock valve with handle available
—safety valves and subs to fit all strings of drill pipe
—Inside BOP or float sub available
—Wear ring in casing head
—All connections subjected to well pressure shall be flanged, welded, or clamped*
—Fill-up line installed above the uppermost preventer.
Violation: Minor (all items unless marked by asterisk).
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.
*Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

vi. If repair or replacement of the BOPE is required after testing, this work shall be performed prior to drilling out the casing shoe.
Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

vii. When the BOPE cannot function to secure the hole, the hole shall be secured using cement, retrievable packer or a bridge plug to assure safe well conditions.
Violation: Major.
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

b. Minimum standards and enforcement provisions for choke manifold equipment. i. All choke lines shall be straight lines unless turns use tee blocks or are targeted with running tees.
Violation: Minor
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.

ii. Choke manifold equipment configuration shall be in accordance with the appropriate diagram shown in Attachment 1 of this Order.
Violation: Minor
Corrective Action: Install the equipment as specified.
Normal Abatement Period: Prompt correction required.

c. Minimum standards and enforcement provisions for pressure accumulator system. i. 2M system—accumulator shall have sufficient capacity to close all BOP's and retain 200 psi above precharge. Nitrogen bottles that meet manufacturer's specifications may be used as the backup to the required independent power source.
Violation: Minor
Corrective Action: Install the equipment as specified.
Normal Abatement Period: 24 hours.

ii. 3M system—accumulator shall have sufficient capacity to open the hydraulically-controlled choke line valve (if so equipped), close all rams plus the annual preventer, and retain a minimum of 200 psi above precharge on the closing manifold without the use of the closing unit pumps. This is a minimum requirement. The fluid reservoir capacity shall be double the accumulator capacity and fluid level maintained at manufacturer's recommendations. The 3M system shall

have 2 independent power sources to close the preventers. Nitrogen bottles (3 minimum) may be 1 of the independent power sources and, if so, shall maintain a charge equal to the manufacturer's specifications.

Violation: Minor

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

iii. 5M and higher system—accumulator shall have sufficient capacity to both open and close the hydraulically-controlled gate valve and all rams plus the annular preventer (for 3 ram systems add a 50 percent safety factor to compensate for any fluid loss in the control system or preventers) and retain a minimum pressure of 200 psi above precharge on the closing manifold without use of the closing unit pumps. The reservoir capacity shall be double the accumulator capacity, and the fluid level shall be maintained at manufacturer's recommendations. Two independent sources of power shall be available for powering the closing unit pumps. Nitrogen bottles are suitable as a backup power source only, and shall be recharged when the pressure falls below manufacturer's specifications.

Violation: Minor.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

d. Minimum standards and enforcement provisions for accumulator precharge pressure test. This test shall be conducted prior to connecting the closing unit to the BOP stack and at least once every 6 months. The accumulator pressure shall be corrected if the measured precharge pressure is found to be above or below the maximum or minimum limit specified below (only nitrogen gas may be used to precharge):

Accumulator working pressure rating	Minimum acceptable operating pressure	Desired precharge pressure	Maximum acceptable precharge pressure	Minimum acceptable precharge pressure
1,500 psi	1,500 psi	750 psi	800 psi	700 psi
2,000 psi	2,000 psi	1,000 psi	1,100 psi	900 psi
3,000 psi	3,000 psi	1,000 psi	1,100 psi	900 psi

Violation: Minor.

Corrective Action: Perform test.

Normal Abatement Period: 24 hours.

e. Minimum standards and enforcement provisions for power availability. Power for the closing unit pumps shall be available to the unit at all times so that the pumps shall automatically start when the closing unit manifold pressure has decreased to a pre-set level.

Violation: Major.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: Prompt correction required.

f. *Minimum standards and enforcement provisions for pump capacity.* Each BOP closing unit shall be equipped with sufficient number and sizes of pumps so that, with the accumulator system removed from service, the pumps shall be capable of opening the hydraulically-operated gate valve, plus closing the annular preventer on the smallest size drill pipe to be used within 2 minutes, and obtain a minimum of 1200 psi pressure on the closing unit manifold.

Violation: Minor.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

g. *Minimum standards and enforcement provisions for locking devices.* A manual locking device (i.e., hand wheels) or automatic locking devices shall be installed on all systems of 2M or greater. A valve shall be installed in the closing line as close as possible to the annular preventer to act as a locking device.

Violation: Minor.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

h. *Minimum standards and enforcement provisions for remote controls.* Remote controls shall be readily accessible to the driller. Remote controls for all 3M or greater systems shall be capable of closing all preventers. Remote controls for 5M or greater systems shall be capable of both opening and closing all preventers. Master controls shall be at the accumulator and shall be capable of opening and closing all preventers and the choke line valve used on 3M or greater systems.

Violation: Minor.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

i. *Minimum standards and enforcement provisions for well control equipment testing.* i. Perform all tests described below using clear water or an appropriate fluid for subfreezing temperatures with a viscosity similar to water.

ii. Ram type preventers and associated equipment shall be tested to rated stack working pressure if isolated by test plug or to 70 percent of internal yield pressure of casing if BOP stack is not isolated from casing. Pressure shall be maintained for at least 15 minutes. Valve on casing head below test plug shall be open during test of BOP stack.

iii. Annular type preventers shall be tested to 50 percent of rated working pressure. Pressure shall be maintained at least 15 minutes.

iv. As a minimum, the above test shall be performed:

A. when initially installed;

B. whenever seal is broken;

C. following related repairs; and

D. at 30-day intervals.

v. Valves shall be tested from working pressure side during BOPE tests with all down stream valves open.

vi. When testing the kill line valve(s), the check valve shall be held open or the ball removed.

vii. Annular preventers shall be activated at least weekly.

viii. Pipe and blind rams shall be activated each trip, however, this function need not be performed more than once a day.

ix. A BOPE drill shall be conducted weekly for each drilling crew.

x. Pressure tests shall apply to all related well control equipment.

xi. All of the above described tests shall be recorded in the drilling log.

Violation: Minor.

Corrective action: Perform the necessary test or provide documentation.

Normal Abatement Period: 24 hours or next trip, as most appropriate.

B. Casing and Cementing Requirements

The proposed casing and cementing programs shall be conducted as approved to protect and/or isolate all fresh water zones, potentially productive zones, lost circulation zones, abnormally pressured zones, and any other leasable mineral deposits. Any isolating medium other than cement shall receive approval prior to use. The casing setting depth shall be calculated to position the casing seat opposite a competent formation which contains the maximum pressure to which it will be exposed, assuming no fluids (except gas) in the hole. Determination of casing

setting depth shall be based on all relevant factors, including: presence/absence of hydrocarbons; fracture gradients; fresh water zones; formation pressures; lost circulation zones; other minerals; or other unusual characteristics. All indications of possible fresh water zones shall be reported. Minimum design factors for the casing and cement program shall include the following:

—Tension: 1.8 buoyant or 1.6 dry.

—Collapse: 1.125.

—Burst: 1.0.

—Casing design shall assume formation pressure gradients of 0.44 to 0.50 psi per foot for exploratory wells (lacking better data).

—Casing design shall assume fracture gradients from 0.70 to 1.00 psi per foot for exploratory wells (lacking better data).

—Casing collars shall have a minimum clearance of ½ inch on all sides in the hole/casing annulus.

—All waiting on cement times shall be adequate to achieve a minimum of 500 psi compressive strength.

1. Minimum Standards and Enforcement Provisions for Casing and Cementing.

a. All casing, except the conductor casing, shall be new or reconditioned used pipe which meets or exceeds API standards for the intended use.

Violation: Major

Corrective Action: Perform remedial action as specified by the authorized officer.

Normal Abatement Period: Prompt correction required.

b. For liners, a minimum of 100 feet of overlap between a string of casing and the next larger casing is required. The interval of overlap shall be sealed and tested. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved.

Violation: Minor.

Corrective Action: Perform remedial action as specified by the authorized officer.

Normal Abatement Period: Upon determination of corrective action.

c. The surface casing shall be cemented back to surface either during the primary cement job or by remedial cementing.

Violation: Major.

Corrective Action: Perform remedial cementing.

Normal Abatement Period: Prompt correction required.

d. All of the above described tests shall be recorded in the drilling log.

Violation: Minor.

Corrective Action: Perform the necessary test or provide documentation.

Normal Abatement Period: 24 hours.

e. All indications of fresh water shall be reported to the authorized officer.

Violation: Major.

Corrective Action: Report information as required.

Normal Abatement Period: Prompt correction required.

f. Surface casing shall have API approved centralizers on the bottom 3 joints as a minimum.

Violation: Major.

Corrective Action: Logging/testing may be required to assure the quality of the job. Recementing may then be specified.

Normal Abatement Period: Prompt correction upon determination of corrective action.

g. Top plugs shall be used to reduce contamination of cement by displacement fluid. A bottom plug or other acceptable technique, such as inner string cement method, shall be utilized to help isolate the cement from contamination by the mud fluid being displaced ahead of the cement slurry.

Violation: Major

Correction Action: Logging and/or recementing may be required to assure the quality of the cement job.

Normal Abatement Period: Upon determination of corrective action.

h. All casing strings below the conductor shall be pressure tested to 70 percent of internal yield pressure or 1 psi per foot of casing depth, whichever is less. If pressure declines more than 10 percent in 30 minutes, corrective action shall be taken.

Violation: Minor.

Corrective Action: Perform the test and/or remedial action as specified by the authorized officer.

Normal Abatement Period: 24 hours.

i. On all exploratory wells and any well requiring 5M BOPE system or greater, a pressure integrity test of each casing shoe shall be performed. Formation at the shoe shall be tested to a minimum of the mud weight equivalent anticipated to control the formation pressure to the next casing depth or at total depth of the well. This test shall be performed before drilling more than 20 feet of new hole.

Violation: Minor.

Corrective Action: Perform the specified test.

Normal Abatement Period: 24 hours.

C. Mud Program Requirements

The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained and readily accessible for the purpose of assuring well control.

Minimum Standards and Enforcement Provisions for Mud Program and Equipment

1. Record slow pump speed on daily drilling report after mudding up.

Violation: Minor.

Corrective Action: Record required information.

Normal Abatement Period: 24 hours.

2. Visual mud monitoring shall be in place to detect volume changes indicating loss or gain of circulating fluid volume.

Violation: Minor.

Corrective Action: Install necessary equipment.

Normal Abatement Period: 24 hours.

3. For all systems of 5M or greater, electronic/mechanical mud monitoring equiment shall be required, which shall include as a minimum: pit volume totalizer (PVT); stroke counter; and flow sensor.

Violation: Minor.

Corrective Action: Install necessary instrumentation.

Normal Abatement Period: 24 hours.

4. A mud test shall be performed every 24 hours to determine density, viscosity, gel strength, filtration, and pH.

Violation: Minor.

Corrective Action: Perform necessary tests.

Normal Abatement Period: 24 hours.

5. A trip tank shall be used on 10M and 15M systems and on those upgraded 5M systems as described in section III 2 a iv hereof.

Violation: Minor.

Corrective Action: Install necessary equipment.

Normal Abatement Period: 24 hours.

6. For all 5M or greater systems or those systems expected to contain H_2S concentrations greater than 100 ppm, there shall be gas detecting equipment to monitor the drilling mud return.

Violation: Minor.

Corrective Action: Install necessary equipment.

Normal Abatement Period: 24 hours.

7. All flare systems shall be designed to gather and burn all gas. The flare line(s) discharge shall be located not less than 150 feet from the well head, having straight lines unless turns are targeted with running tees, and shall be positioned in accordance with the prevailing wind direction. The flare system shall have an effective method for ignition. Where noncombustible gas

is vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare.

Violation: Major.

Corrective Action: Install equipment as specified.

Normal Abatement Period: 24 hours.

8. A mud-gas separator (gas buster) shall be installed and operable for all systems of 5M or greater, beginning at a point at least 1000 feet above the anticipated hydrocarbon zone of interest.

Violation: Major.

Corrective Action: Install required equipment.

Normal Abatement Period: Prompt correction required.

D. Drill Stem Testing Requirements

All Drill Stem Tests (DST) shall be accomplished during daylight hours. However, DSTs may be allowed to continue at night if the test was initiated during daylight hours and the rate of flow is stabilized and if adequate lighting is available (i.e., lighting which is adequate for visibility and vapor-proof for safe operations). Packers can be released, but tripping should not begin before daylight.

Minimum Standards for Drill Stem Testing

1. A flowing DST shall be either reversed out of the testing string under controlled surface conditions, or displaced into the formation prior to pulling the test tool. This would involve using a circulating sub.

Violation: Major.

Corrective Action: Contingent on circumstances and as specified by the authorized officer.

Normal Abatement Period: Prompt correction required.

2. Separation equipment shall be properly installed before a test starts.

Violation: Major.

Corrective Action: Install required equipment.

Normal Abatement Period: Prompt correction required.

3. All engines within 150 feet of the wellbore that are required to "run" during the test shall have spark arresters or water cooled exhausts.

Violation: Major.

Corrective Action: Install required equipment.

Normal Abatement Period: Prompt correction required.

E. Special Drilling Operations

1. In addition to the equipment already specified elsewhere in this onshore order, the following equipment shall be in place during air/gas drilling:

—Properly lubricated and maintained rotating head *

—Spark arresters on engines or water cooled exhaust *

—Blooie line discharge 150 feet from well bore and securely anchored

—Straight run on blooie line

—Deduster equipment *

—Containment of all cuttings and the circulating medium *

—Float valve above bit *

—Automatic igniter and continuous pilot light on the blooie line *

—Compressors located in the opposite direction from the blooie line a minimum of 125 feet from the well bore

—Mud circulating equipment, water, and enough mud (does not have to be premixed) to maintain hole capacity and circulate through the pits.

Violation: Minor (unless marked by an asterisk).

Corrective Action: Install the equipment as specified.

Normal Abatement Period: 24 hours.

* Violation: Major.

Corrective Action: Install the equipment as specified.

Normal Abatement Period: Prompt correction required.

2. Hydrogen sulphide operation is specifically addressed under Onshore Oil and Gas Order No. 6.

F. Surface Use

Onshore Oil and Gas Order No. 1 specifically addresses surface use. That Order provides for safe operations, adequate protection of surface resources and uses, and other environmental components. The operator/lessee is responsible for, and liable for, all building, construction, and operating activities and subcontracting activities conducted in association with the APD. Requirements and special stipulations for surface use are contained in or attached to the approved APD. These requirements and stipulations of approval shall be strictly adhered to by the operator/lessee and any contractors.

Minimum Standards and Enforcement Provisions for Surface Use

1. A 3-foot freeboard shall be maintained on all earthen pits.

2. Trenches shall be dug around substructures and steel pits to channel mud and water into the reserve pit or another acceptable location as prescribed in the APD.

3. Trash shall be confined.

4. If pit lining is required, it shall be in accordance with the specifications outlined by the surface management authority *.

5. Burning shall be approved prior to any such action.

6. Roads, pad, and pit construction shall be performed in accordance with the approved APD. Variances to the APD shall be approved prior to any changes in the construction of the above items.

7. Pad construction shall assure surface runoff drains away from drill pad and reserve pit(s).

8. Fencing shall be done in accordance with the approved APD.

9. Dust control shall be accomplished in accordance with the approved APD.

10. Construction materials and the water supply shall be from the approved sources and routes as outlined in the approved APD. Variances to the APD shall be approved prior to any changes in the construction material and/or water supply used.

11. Any additional surface disturbance to that approved in the APD shall be approved prior to that disturbance taking place.*

12. Sanitary facilities shall be approved by the proper regulatory authorities.

Violation: Minor (unless as indicated by an asterisk).

Corrective Action: Perform required work to gain compliance.

Normal Abatement Period: 24 hours or as specified by the authorized officer.

*Violation: Major.

Corrective Action: Installed the equipment/perform work to gain compliance.

Normal Abatement Period: Prompt correction required.

G. Drilling Abandonment Requirements

The following standards apply to the abandonment of newly drilled dry or non-productive wells in accordance with 43 CFR 3162.3–4 and section V of Onshore Oil and Gas Order No. 1. Approval shall be obtained prior to the commencement of abandonment. All formations bearing usable-quality water, oil, gas, or geothermal resources, and other minerals shall be protected. Approval may be given orally by the authorized officer before abandonment operations are initiated. This oral request and approval shall be followed by a written notice of intent to abandon filed not later than the fifth business day following oral approval. Failure to obtain approval prior to commencement of abandonment operations shall result in immediate assessment of under 43 CFR 3163.1(b)(3). The hole shall be in static condition at the time any plugs are placed (this does not pertain to plugging lost circulation zones). Within 30 days of completion of abandonment, a subsequent report of abandonment shall be filed. Plugging design for an

abandoned hole shall include the following:

1. Open Hole.

i. A cement plug shall be placed to extend at least 50 feet below the bottom (except as limited by total depth (TD) or plugged back total depth (PBTD)), to 50 feet above the top of:

a. Any zone encountered during drilling which contains fluid with a potential to migrate;

b. Lost circulation zones; or

c. Any potentially valuable mineral, including noncommercial hydrocarbons, coal, and oil shale.

ii. All cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of hole, plus an additional 10 percent of slurry for each 1,000 feet of depth.

iii. No plug, except the surface plug, shall be less than 25 sacks without receiving specific approval from the authorized officer.

iv. Extremely thick sections of the open hole may be secured by placing 100-foot plugs across the top and bottom of the formation, and in accordance with item ii hereof.

v. In the absence of productive zones or minerals which otherwise require placement of cement plugs, long sections of open hole shall be plugged at least every 3,000 feet. Such plugs shall be placed across in-gauge sections of the hole.

2. Cased Hole. A cement plug shall be placed opposite all open perforations and extend to a minimum of 50 feet below (except as limited by TD or PBTD) to 50 feet above the perforated interval. All cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of hole, plus an additional 10 percent of slurry for each 1,000 feet of depth. In lieu of the cement plug, a bridge plug is acceptable, provided:

i. The bridge plug is set within 50 feet to 100 feet above the open perforations;

ii. The perforations are isolated from any open hole below; and

iii. The bridge plug is capped with 50 feet of cement. If a bailer is used to cap this plug, 35 feet of cement shall be sufficient.

3. Casing Removed from Hole. If any casing is cut and recovered, a cement plug shall be placed to extend at least 50 feet above and below the stub. The exposed hole resulting from the casing removal shall be secured as required in items 1i and 1ii hereof.

4. An additional cement plug placed to extend a minimum of 50 feet above and below the shoe of the surface casing (or intermediate string, as appropriate).

5. Annular Space. No annular space that extends to the surface shall be left open to the drilled hole below. If this condition exists, a minimum of the top 100 feet of annulus shall be plugged with cement.

6. Isolating Medium. Any cement plug which is the only isolating medium for a fresh water interval or a zone containing a valuable mineral deposit shall be tested by tagging with the drill string. Any plugs placed where the fluid level will not remain static also shall be tested by either tagging the plug with the working pipe string, not to exceed 15,000 pounds, or pressuring to a minimum pump (surface) pressure of 1,000 psi, with no more than a 10 percent drop during a 15-minute period (cased hole only). If the integrity of any other plug is questionable, or if the authorized officer has specific concerns for which he/she orders a plug to be tested, it shall be tested in the same manner.

7. Silica Sand or Silica Flour. Silica sand or silica flour shall be added to cement exposed to bottom hole static temperatures above 230°F to prevent heat degradation of the cement.

8. Surface Plug. A cement plug of at least 50 feet shall be placed in the smallest casing which extends to the surface. The top of this plug shall be placed as near the eventual casing cut-off point as possible.

9. Mud. Each of the intervals between plugs shall be filled with mud of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval. In the absence of other information at the time plugging is approved, a minimum mud weight of 9 pounds per gallon shall be specified.

10. Surface Cap. All casing shall be cut-off at the base of the cellar or 3 feet below final restored ground level (whichever is deeper), and the cellar filled from the cement plug to the surface with suitable material. The well bore shall then be covered with a metal plate at least ¼ inch thick and welded in place, or a 4-inch pipe, 10-feet in length, 4 feet above ground and embedded in cement. The well location and identity shall be permanently inscribed. A weep hole shall be left if a metal plate is welded in place.

Minimum Standard

All plugging orders shall be strictly adhered to.

Violation: Major.

Corrective Action: Contingent upon circumstances.

Normal Abatement Period: Prompt correction required.

IV. Variances from Minimum Standard

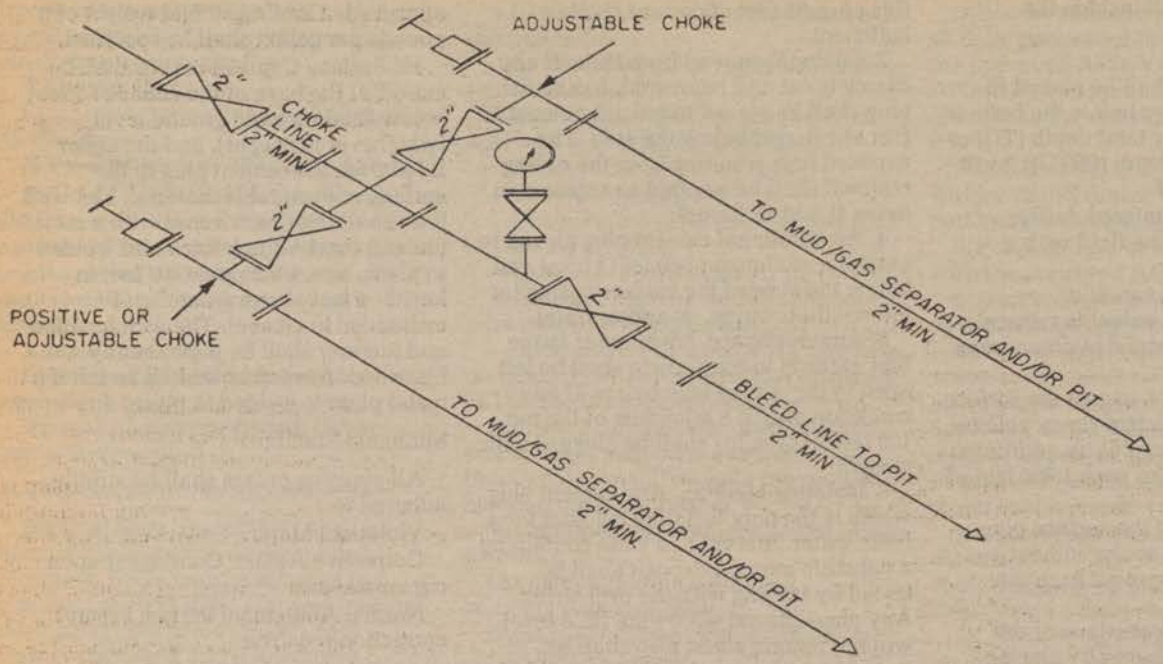
An operator may request the authorized officer to approve a variance from any of the minimum standards prescribed in section III hereof. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related minimum standard(s) are to be satisfied. The authorized officer, after considering all relevant factors, if appropriate, may approve the requested variance(s) if it is determined that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s).

ATTACHMENTS

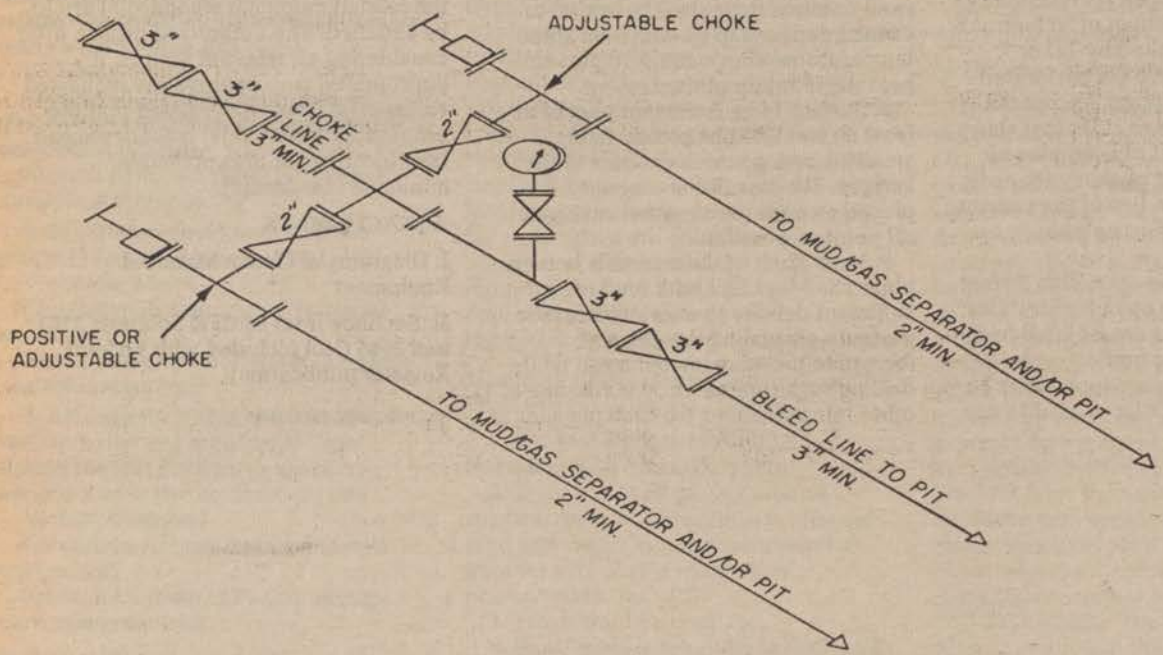
I. Diagrams of Choke Manifold Equipment

II. Sections from 43 CFR Subparts 3163 and 3165 (Not included with Federal Register publication)

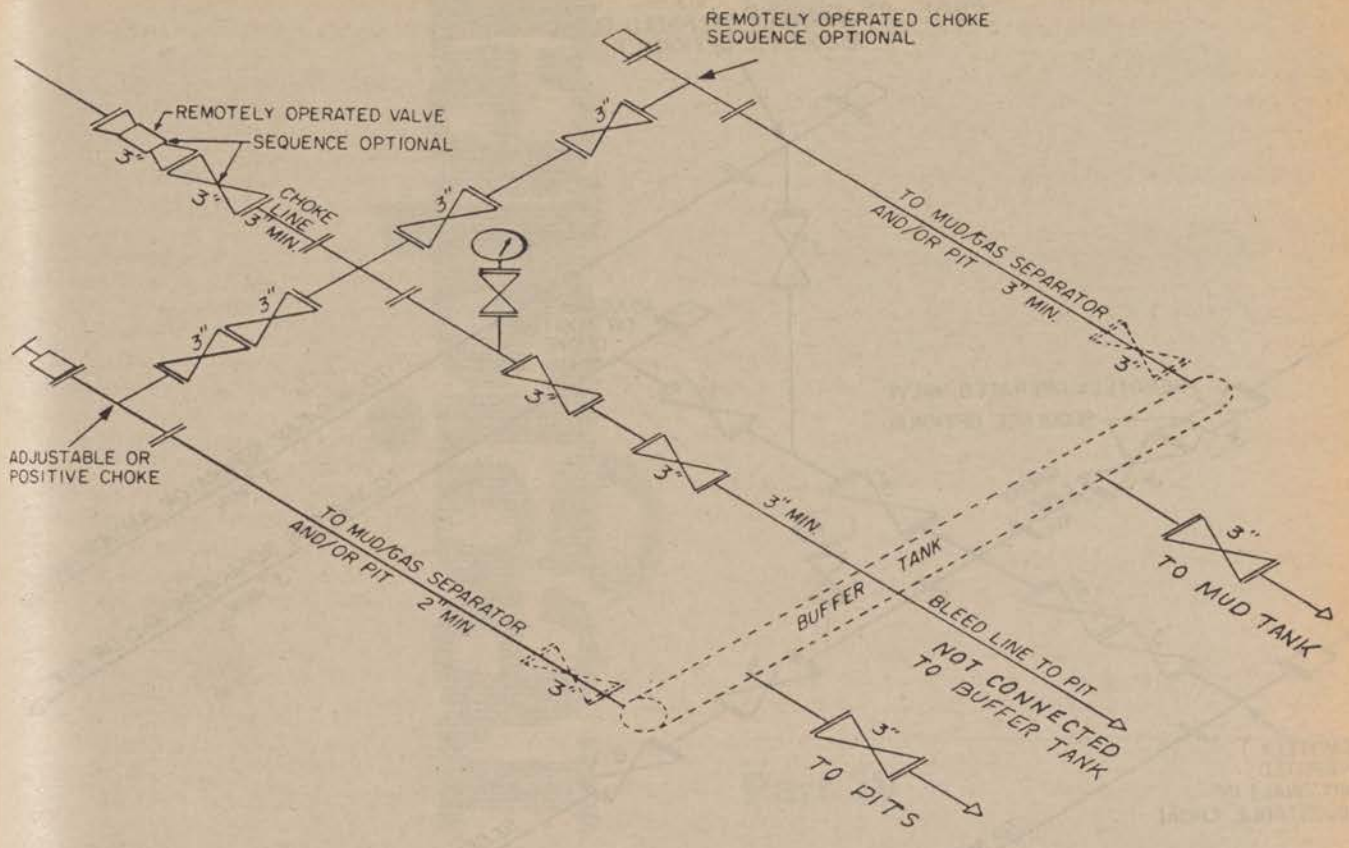
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2M CHOKE MANIFOLD EQUIPMENT

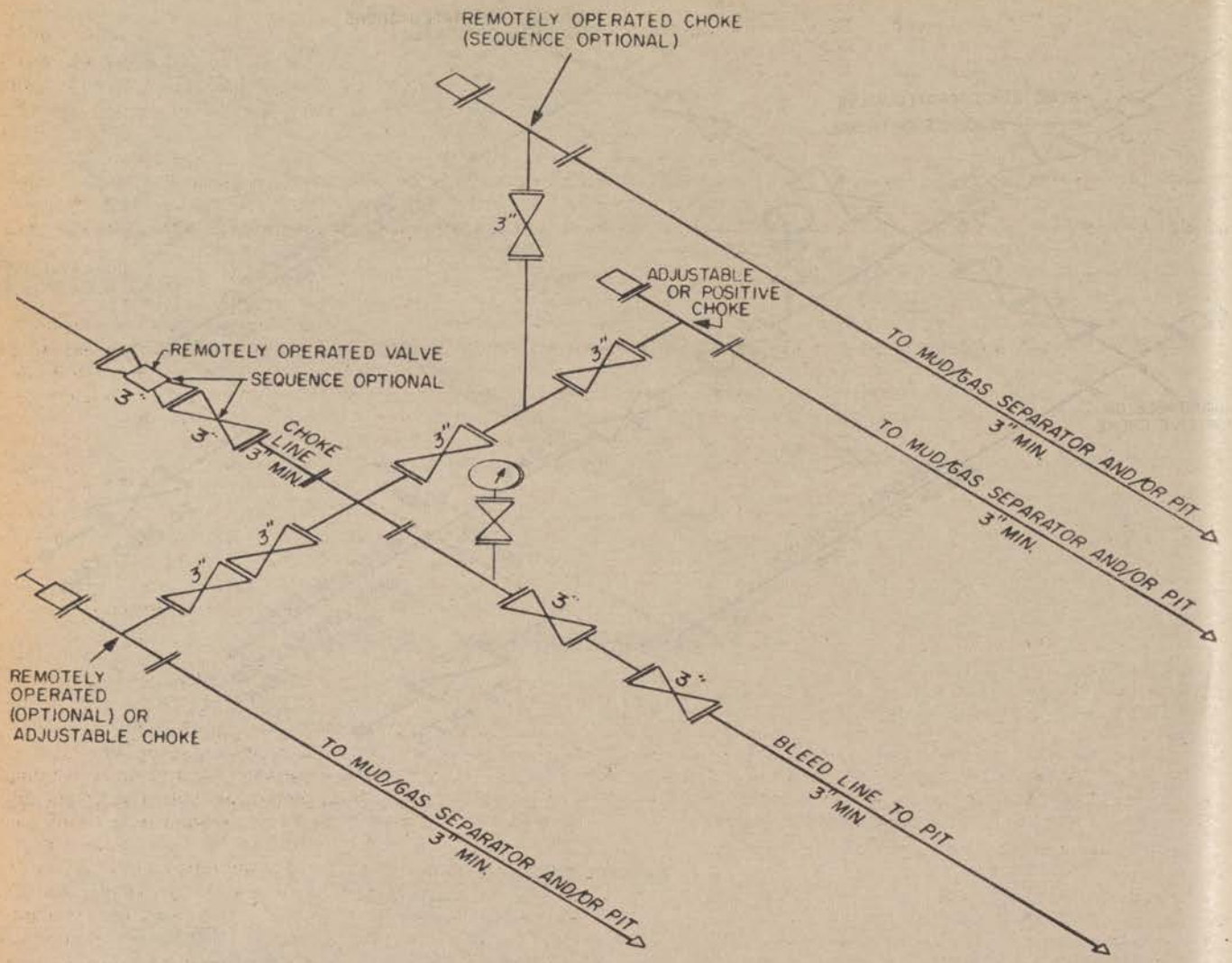


3M CHOKE MANIFOLD EQUIPMENT



5M CHOKE MANIFOLD EQUIPMENT

Although not required for any of the choke manifold systems, buffer tanks are sometimes installed downstream of the choke assemblies for the purpose of manifolding the bleed lines together. When buffer tanks are employed, valves shall be installed upstream to isolate a failure or malfunction without interrupting flow control. Though not shown on 2M, 3M, 10M, or 15M drawings, it would also be applicable to those situations.



10M AND 15M CHOKE MANIFOLD EQUIPMENT

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federal register

Thursday
August 13, 1987

Part IV

Department of Education

34 CFR Parts 502, 504, and 524

Bilingual Education; Academic Excellence Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 502, 504, and 524

Bilingual Education; Academic Excellence Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations for the Bilingual Education: Academic Excellence Program. The Academic Excellence Program provides financial assistance for projects designed to serve as models of exemplary programs of transitional bilingual education, developmental bilingual education, and special alternative instruction, and facilitates the dissemination of these effective bilingual educational practices.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Mary T. Mahony, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 421, Reporters Building), Washington, DC 20202. Telephone (202) 447-0228.

SUPPLEMENTARY INFORMATION: The authority for the Academic Excellence Program is section 721(a)(4) of Part A of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended. (20 U.S.C. 3221-3262).

On March 10, 1987, the Secretary published a Notice of Proposed Rulemaking (NPRM) for the Academic Excellence Program in the Federal Register (52 FR 7380).

The provisions of these final regulations are substantially the same as those of the NPRM. In response to public comments on the proposed regulations, the Secretary has made some changes. These include increasing the number of programs that each SEA may nominate.

Summary of significant comments and responses

The following is a summary of the significant comments received and the Secretary's responses:

Section 524.21 How does an SEA nominate an applicant under this program?

Comment. Several commenters suggested that limiting to six the number of nominations assigned each State is inequitable, given the demographic distribution of limited English proficient (LEP) children and the diversity of capacity building efforts in each state.

Response. A change has been made. The Secretary will consider up to eight nominations from each State. To avoid delaying awards in Fiscal Year 1987, this change will first be effective in Fiscal Year 1988.

Section 524.31 What selection criteria does the Secretary use?

Comment. Several commenters stated that the language used in § 524.31(a)(2) and the term "identified areas" used in paragraph (b)(2) was ambiguous.

Response. A change has been made. The language in § 524.31(a)(2) and (b)(2) has been revised to clarify any possible ambiguity and to emphasize the awarding of points to projects suitable for adoption, not necessarily projects that address areas of need.

Section 524.32 What additional factors does the Secretary consider?

Comment. Several commenters recommended deleting the additional factors considered by the Secretary in awarding grants. They expressed concern that applicants could not address these factors since the focus of the Academic Excellence Program is dissemination of effective programs to new sites but the additional factors are more related to programs of instructional services.

Response. A change has been made in § 524.32. Section 721(h) of the statute requires that the Secretary consider these additional factors when making grants to LEAs under Part A of the Act. Language has been revised to make these statutory requirements more appropriate for academic excellence projects.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 502, 504, and 524.

Bilingual education, Colleges and universities, Dissemination, Education, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements, Teachers.

Dated: July 28, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.003, Bilingual Education: Academic Excellence Program)

The Secretary amends Title 34 of the Code of Federal Regulations as follows:

1. By removing Part 502.

2. By removing Part 504.

3. By adding a new Part 524 to read as follows:

PART 524—BILINGUAL EDUCATION: ACADEMIC EXCELLENCE PROGRAM

Subpart A—General

Sec.

524.1 Academic Excellence Program.
524.2 Who is eligible to apply for assistance?
524.3 What regulations apply?
524.4 What definitions apply?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

524.10 What are the project activities?

Subpart C—How Does One Apply for an Award

Sec.
524.20 How does an applicant apply for a grant under this program?
524.21 How does an SEA nominate an applicant under this program?

Subpart D—Does the Secretary Make an Award?

524.30 How does the Secretary evaluate an application?
524.31 What selection criteria does the Secretary use?
524.32 What additional factors does the Secretary consider?
524.33 What is the length of the project period?

Subpart E—What Conditions Must Be Met by a Recipient?

524.40 What requirements must a grantee meet concerning a model site?

Authority: 20 U.S.C. 3221–3236, unless otherwise noted.

Subpart A—General

§ 524.1 Academic Excellence Program.

The Academic Excellence Program identifies and disseminates information about programs of transitional bilingual education, development bilingual education, or special alternative instruction that—

(a) Have an established record of providing effective, academically excellence instruction; and

(b) Are designed to—

(1) Serve as models of exemplary bilingual education programs; and

(2) Facilitate the dissemination of effective bilingual education practices.

(Authority: 20 U.S.C. 3223(a)(8))

§ 524.2 Who is eligible to apply for assistance?

(a) Subject to the limitations in paragraph (b) of this section, the following parties are eligible for assistance under this part:

(1) Local education agencies (LEAs).

(2) Institutions of higher education (IHEs), including junior or community colleges, that apply jointly with one or more LEAs.

(b) In the case of an application submitted by an IHE jointly with one or more LEAs, an LEA must be designated as the applicant in the group agreement required under 34 CFR 75.128.

(c) In order to be considered for assistance under this part, an applicant must administer a program of transitional bilingual education, developmental bilingual education, or special alternative instruction that is either—

(1) Nominated by its State educational agency (SEA) in accordance with § 524.20; or

(2) Approved by the Joint Dissemination Review Panel (JDRP), in accordance with 34 CFR 796.3 and 796.13.

(Authority: 20 U.S.C. 8231(b)(1)(A), 3223(a)(8))

§ 524.3 What regulations apply?

The following regulations apply to the Academic Excellence Program:

(a) The regulations identified in 34 CFR 500.3.

(b) The regulations in this Part 524.

(Authority: 20 U.S.C. 3231(a)(4))

§ 524.4 What definitions apply?

The following definitions apply to the Academic Excellence Program:

(a) The definitions identified in 34 CFR 500.4.

(b) The definition of "Joint Dissemination Review Panel" and "JDRP Approval" set forth in 34 CFR 796.3.

(c) "Adoption" means implementation of the applicant's program of transitional bilingual education, developmental bilingual education, or special alternative instruction in a new setting.

(Authority: 20 U.S.C. 3231(a)(4))

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 524.10 What are the project activities?

(a) A project must—

(1) Develop material—

(i) To inform LEAs and other service providers such as private schools or institutions of higher education conducting an elementary or secondary education program about the grantee's program; and

(ii) To use for training in conjunction with adoption of the program;

(2) Conduct outreach activities to inform potential users about the grantee's program and the availability of assistance from the grantee in its adoption;

(3) Make necessary arrangements to inform interested LEAs and other educational service providers about the exemplary program;

(4) Assist in adoption by providing training and technical assistance to educational personnel in the preparation, implementation, and evaluation stages of an adoption; and

(5) Evaluate the quality and effectiveness of the activities listed in paragraphs (a) (1), (2), (3), and (4) of this section.

(b) Assistance under this part may not be used to pay for direct instructional services to children.

(Authority: 20 U.S.C. 3231(a)(4))

Subpart C—How Does One Apply for an Award?

§ 524.20 How does an applicant apply for a grant under this program?

(a) Prior to submitting its application, an applicant must obtain—

(1) JDRP approval of its program of transitional bilingual education, developmental bilingual education, or special alternative instruction; or

(2) The nomination of its program of transitional bilingual education, developmental bilingual education, or special alternative instruction by the SEA of the State in which the program is located.

(b) An application must document compliance with paragraph (a) of this section and include—

(1) The information required under Section 721(c)(4) of the Act; and

(2) Assurances that the exemplary program is currently operating at a local site.

(Authority: 20 U.S.C. 3231(a)(4))

(Approved by the Office of Management and Budget under control number 1885–0003)

§ 524.21 How does an SEA nominate an applicant under this program?

(a) Beginning in fiscal year 1988, the SEA of the State in which the program is located may nominate up to eight programs under this part. For fiscal year 1987, the SEA may nominate up to six programs.

(b) In nominating programs, the SEA shall consider—

(1) Documented evidence of the established record of effectiveness of the program in teaching English to LEP students;

(2) Exemplary features of the program; and

(3) Other relevant information provided by the applicant.

(c) The SEA shall provide assurances to the Secretary that—

(1) The program has been reviewed with respect to each of the factors referred to in section 721(c)(4)(A)–(D) of the Act and the criterion in § 524.31(a); and

(2) The program is exemplary.

(Authority: 20 U.S.C. 3231(a)(4))

Subpart D—How Does the Secretary Make an Award?

§ 524.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a new grant on the basis of the criteria listed in § 524.31. The Secretary awards a maximum of 100 points for all the criteria. The maximum possible score for each criterion is

indicated in parentheses after the criterion heading.

(b) The Secretary then applies the additional factors listed in § 524.32.

(Authority: 20 U.S.C. 3231(a)(4))

(Approved by the Office of Management and Budget under control number 1885–0003)

§ 524.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Educational significance.* (30 points) The Secretary reviews each application to determine the significance of the program in—

(1) Teaching English to LEP children:

(2) Using techniques that are suitable for adoption by other providers of educational services to LEP children.

(b) *Project design and objectives.* (25 points)

(1) The Secretary considers the extent to which the project has specific and quantifiable objectives including—

(i) An effective plan of management that ensures the proper and efficient administration of the project; and

(ii) Effective strategies for—

(A) Developing and disseminating information about the exemplary program;

(B) Training and assisting potential users in adoption of the program;

(C) Monitoring and evaluating adoption of the program; and

(D) Using resources and personnel to achieve each objective.

(2) The Secretary considers the extent to which the project will help address identified needs.

(3) The Secretary reviews each application to determine the ability of the applicant to maintain the exemplary program.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project including—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraph (c)(1) of this section, the Secretary considers—

(i) Experience and training, in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) Produce objective and quantifiable data including the evaluation of the performance of students who have received instruction at the adoption sites. The evaluation should, if possible, include per- and post-adoption testing of English language proficiency.

(2) The Secretary reviews the relationship of the evaluation plan to the goals of the project and the activities conducted to attain those goals.

Cross-Reference. See 34 CFR 75.590 Evaluation by the grantee.

(e) *Coordination.* (5 points) The Secretary reviews each application to determine the extent to which the applicant will coordinate activities with SEAs, Multifunctional Resource Centers, the National Clearinghouse on Bilingual Education, and other providers of technical assistance serving programs for limited English proficient persons.

(f) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) the budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(g) *Commitment and capacity.* (5 points) The Secretary reviews each application to determine the applicant's commitment to the dissemination and adoption of the exemplary program in the past, and the likelihood of the applicant's continued efforts to disseminate and achieve the adoption of the exemplary program when Federal assistance under this part ends.

(Authority: 20 U.S.C. 3231(a)(4))

(Approved by the Office of Management and Budget under control number 1885–0003).

§ 524.32 What additional factors does the Secretary consider?

(a) The Secretary consider the following additional factors in awarding grants:

(1) How dissemination and adoption of the model program would relate to—

(i) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons; and

(ii) The need to provide funding according to the distribution of LEP children throughout the Nation, and within each of the States.

(2) The relative numbers of children from low-income families likely to be benefited by the project.

(b) The Secretary distributes an additional 15 points among the factors listed in paragraph (a) of this section. The Secretary indicates how these 15 points are distributed in the application notice published in the **Federal Register.**

(Authority: 20 U.S.C. 3231)

§ 524.33 What is the length of the project period?

The Secretary approves a project period of three years for an award under the Academic Excellence Program.

(Authority: 20 U.S.C. 3231(d)(2))

Subpart E—What Conditions Must Be Met by a Recipient?

§ 524.40 What requirements must a grantee meet concerning a model site?

A grantee funded under the Academic Excellence Program shall maintain a model site where—

(a) Visitors can observe the exemplary program; and

(b) There are educational staff who are experienced and knowledgeable about the program.

(Authority: 20 U.S.C. 3231(a)(4))

[FR Doc. 87–18467 Filed 8–12–87; 8:45 am]

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Federal Register
Vol. 52, No. 156
Thursday, August 13, 1987

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Code of Federal Regulations

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Laws 523-5230

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United States Government Manual 523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

28681-28814.....3
28815-28958.....4
28959-29172.....5
29173-29362.....6
29363-29496.....7
29497-29654.....10
29655-29832.....11
29833-30124.....12
30125-30324.....13

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

304.....29497

3 CFR

Proclamations:
5365 (Amended by Proc. 5690).....29655
5686.....28959
5687.....28961
5688.....29363
5689.....29365
5690.....29655
5691.....29833
5692.....30125

Executive Orders:
12519 (Amended by Proc. 5690).....29655
12528 (Amended by EO 12604).....29495
12604.....29495

Administrative Orders:
Memorandums:
August 5, 1987.....29367

5 CFR

572.....28815
1603.....29835

Proposed Rules:
297.....28833
531.....29862
540.....28840
870.....28841
874.....28841

7 CFR

29.....30280
210.....30127
215.....30127
220.....30127
272.....29657
275.....29657
301.....29173
319.....29369
704.....29836
910.....29371
1944.....29174
1951.....29174

Proposed Rules:
800.....30167
801.....30167
802.....30167
907.....30167
908.....30167
920.....28724
994.....29531
1030.....29196
1736.....29531

8 CFR

Proposed Rules:
286.....29863

9 CFR

93.....29498
99.....29498
101.....30128
102.....30128
103.....30128
104.....30128
107.....30128
114.....30128
115.....30132
118.....30132
318.....30136

Proposed Rules:
1.....29865
2.....29865
91.....28842

10 CFR

9.....29504
50.....28963
725.....30138
862.....29836

Proposed Rules:
2.....29024, 29196
9.....29196

12 CFR

21.....28681

Proposed Rules:
221.....29701
501.....29387
522.....29030
523.....30140
543.....29387
544.....29387
545.....29387
546.....29387
551.....29387
1101.....29865

13 CFR

Proposed Rules:
107.....28842
121.....29532

14 CFR

39.....28682, 28683, 28817, 28973, 28976, 29353, 29371, 29372, 29505, 29506, 30143
71.....28684-28686, 28818, 28819, 29353, 29506
73.....28685
75.....28686, 28687
97.....28820, 30144
121.....28938
125.....28938
127.....28938
129.....28938
135.....28938

Proposed Rules:
39.....29032, 29387-29390, 29534

61 29205
71 ..... 28725, 28726, 29205, 29470, 29474, 29605, 29612, 30168
91 29205

15 CFR

371 29373
377 29353
379 29176
389 29176
399 ..... 29176, 29373, 29839

16 CFR

429 29507
1015 28977

Proposed Rules:

13 ..... 29535, 29537
429 29539

17 CFR

1 28980
30 28980
32 28980
33 29508
166 28980
229 30145
230 30145
239 30145
240 30145

Proposed Rules:

230 ..... 29033, 29206
239 29033

18 CFR

2 30146
154 ..... 29659, 30146
157 ..... 29659, 30146
201 30146
270 ..... 29003, 29659, 30146
271 ..... 29003, 29008, 29659, 30146
273 29003
274 29003
284 29659

Proposed Rules:

385 29216

20 CFR

404 29659
416 29840

Proposed Rules:

416 30169

21 CFR

5 29663
73 29664
74 28688
101 28690
131 29509
175 29178
176 29665
177 29667
178 ..... 29841, 30149
193 29008
310 30042
341 30042
369 30042
520 30150
558 29009
561 29008
862 29467
872 30082
1240 29509

Proposed Rules:

7 30171
101 28443
872 ..... 30107, 30120
1308 ..... 30174, 30175

22 CFR

22 29514
41 ..... 29374, 29842
42 29842
51 29514
307 30151

Proposed Rules:

41 29542
42 29542

23 CFR

659 28691

24 CFR

885 29010
905 29360
990 29360

Proposed Rules:

115 29038

25 CFR

62 30159

Proposed Rules:

179 29701

26 CFR

1 ..... 29375, 29668
301 30162
602 ..... 29668, 30162

Proposed Rules:

1 ..... 29391, 29704
301 30177
602 29704

27 CFR

Proposed Rules:

9 29705

29 CFR

Proposed Rules:

103 29038
1910 ..... 28727, 29620
1915 28727
1917 28727
1918 28727

30 CFR

816 29180
935 29515

Proposed Rules:

202 29868
203 29868
206 29868
212 29868
218 29868
256 29222
925 29546
946 28849

31 CFR

Proposed Rules:

223 29039

32 CFR

40 29844
174 29181
292a 29182
2003 ..... 28802, 29793

Proposed Rules:

199 29044

33 CFR

100 ..... 29516, 30164
117 ..... 28693, 28694

34 CFR

221 28814
309 29816
350 30060
351 30060
352 30060
353 30060
354 30060
355 30060
356 30060
357 30060
358 30060
359 30060
502 30322
504 30322
524 30322
629 29824
631 29140
632 29140
633 29140
634 29140
635 29140
636 ..... 29140, 30282
650 29356
668 30114
673 29120
762 29608

36 CFR

1250 29517
1258 29517

Proposed Rules:

9 28850

37 CFR

202 28821

Proposed Rules:

201 28731

38 CFR

Proposed Rules:

21 30178

39 CFR

10 29697
20 29697
111 29011
965 29012

40 CFR

50 ..... 29382, 29467
51 ..... 29383, 29385
52 ..... 28694, 29383, 29385
60 28946
180 29013
228 29845
261 ..... 28696, 28697, 29846–29849
271 29522
799 28698

Proposed Rules:

2 29045
22 29222
24 29222
50 29392
52 ..... 29392, 29394, 30189
60 29548
180 29050
228 ..... 29550, 30189
260 29708
265 29708
268 29992
270 29708
271 30192
763 29228
795 ..... 29395, 29990
796 29395
799 29395

41 CFR

101–26 ..... 29522, 29523
201–8 30280

42 CFR

405 28823
409 28823
410 29353
442 28823

Proposed Rules:

405 29605
413 29605
441 29605
482 29605
485 29605

43 CFR

3450 28824

Public Land Orders:

6653 29525
6654 29525

Proposed Rules:

3160 ..... 30282, 30310
3480 29868
5400 28850
5440 28850

44 CFR

64 29184
65 ..... 29014, 29015
67 29016

Proposed Rules:

65 29228

45 CFR

233 28824
1612 28777
2002 28705

Proposed Rules:

16 30194
402 30194
1612 28777

46 CFR

Proposed Rules:

27 29556
558 29708
559 29708
560 29708
561 29708
562 29708
564 29708
566 29708
569 29708
586 29396

47 CFR

22 ..... 29186, 29386
31 29018
32 29018
73 ..... 28705, 28825, 29851–29854
80 28825
90 29855
94 29855
97 28826

Proposed Rules:

Ch. I 28731

73.....28731, 27732, 29235, 29869-29872
90.....29051
95.....29396
97.....29052

48 CFR

1.....30074
5.....30074
7.....30074
13.....30074
19.....30074
22.....30074
25.....30074
28.....30074
31.....30074
32.....30074
45.....30074
52.....30074
53.....30074
204.....28705
215.....28705
230.....28705
253.....28705
507.....28827
508.....28827
525.....28828
552.....28827
553.....28827
904.....28716
952.....28716
970.....28716

49 CFR

171.....29526
172.....29526
173.....29526
509.....29857
1011.....30165
1132.....30165
1161.....30165
1162.....30165

Proposed Rules:

571.....29873
580.....29556
647.....29709
1039.....29873
1206.....28854
1249.....28854

50 CFR

17.....28780, 28828, 29751, 29754, 29784
20.....28717, 29187
25.....29858
285.....28831
611.....29528
655.....30166
661.....28721, 29019, 29020, 29528, 29700, 29860
674.....29020
675.....28722, 29021

Proposed Rules:

17.....28787
32.....28931
611.....30212
649.....28732
663.....29400
675.....30212

LIST OF PUBLIC LAWS

Last List August 7, 1987

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3190/Pub. L. 100-84

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S. 958/Pub. L. 100-85

To dedicate the North Cascades National Park to Senator Henry M. Jackson (Aug. 10, 1987; 101 Stat. 551; 1 page) Price: $1.00

H.R. 27/Pub. L. 100-86

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