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federal register

Thursday
July 15, 1982

Selected Subjects

Administrative Practice and Procedure
Administrative Conference of United States
Fish and Wildlife Service

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Transportation Department

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Child Welfare
Human Development Services Office

Coal Allocation
Energy Department

Electronic Products
Federal Trade Commission

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Fisheries
Indian Affairs Bureau
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Freedom of Information
National Capital Planning Commission

CONTINUED INSIDE

Selected Subjects

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

Health Planning
Public Health Service

Income Taxes
Internal Revenue Service

Marine Safety
Navy Department

Marketing Agreements
Agricultural Marketing Service

Mortgage Insurance
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Nuclear Materials
Energy Department

Old-Age, Survivors and Disability Insurance
Social Security Administration

Postal Service
Postal Service

Contents

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

The President
ADMINISTRATIVE ORDERS
30699 Poultry exports (Memorandum of July 12, 1982)

Executive Agencies

Actuaries, Joint Board for Enrollment
NOTICES
Committees; establishment, renewals, terminations, etc.:
30884 Actuarial Examinations Advisory Committee; invitation for membership

Administrative Conference of United States
RULES
Recommendations, etc.:
30701 Freedom of information exemptions, grant disputes, Federal venue provisions, regulatory development, regulation of carcinogens, etc.

Agricultural Marketing Service
RULES
30715 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
30792 Celery grown in Fla.

Agriculture Department
See Agricultural Marketing Service.

Army Department
NOTICES
Environmental statements; availability, etc.:
30805 Parks Reserve Forces Training Area, Calif.; reactivation and development plans

Bonneville Power Administration
NOTICES
30811 Near-term resource policy, proposed; inquiry

Civil Aeronautics Board
NOTICES
30803 Agency forms submitted to OMB for review
30803 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
30804 Commuter fitness determinations
Hearings, etc.:
30804 Central Zone-Caracas/Maracaibo, Venezuela service case
30804 Dallas/Ft. Worth-London case

Civil Rights Commission
NOTICES
30912 Meetings; Sunshine Act

Commerce Department
See National Oceanic and Atmospheric Administration; National Technical Information Service.

Conservation and Renewable Energy Office
PROPOSED RULES
Appliances and consumer products:
30793 Energy efficiency standards; Justice Department determination

Customs Service
NOTICES
Tariff reclassification petitions:
30911 Chinaware; extension of time

Defense Criminal Investigative Service
NOTICES
30805 Privacy Act; systems of records

Defense Department
See Army Department; Defense Criminal Investigative Service; Navy Department.

Economic Regulatory Administration
NOTICES
Remedial orders:
30815 U-Tex Oil Co.

Energy Department
See also Bonneville Power Administration; Conservation and Renewable Energy Office; Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission.
RULES
30717 Classified matter or special nuclear material, access; criteria and procedures for determining eligibility
30716 Coal; priority delivery under Defense Department contracts; CFR Part removed

Energy Information Administration
NOTICES
30815 Domestic oil and gas reserves (Form EIA–23), DOE annual survey; proposed revision; inquiry and republication

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
30761 Louisiana
30762 Montana
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
30799 Synthetic organic chemicals manufacturing industry, volatile organic compounds (VOC) from fugitive emission sources; document availability; extension of time
Air quality implementation plans; approval and promulgation; various States, etc.:
30798 Alabama
Permit programs, consolidated:
30799 Minimization of regulatory burdens; correction
NOTICES
Toxic and hazardous substances control:
30867, 30868 Premanufacture notification requirements; test marketing exemption approvals (2 documents)

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
30946 Flightcrew requirements for aircraft certificated under SFAR 41
Airworthiness directives:
30720 Pratt & Whitney
30721 Standard instrument approach procedures
PROPOSED RULES
Aircraft products and parts, certification:
30794 Beech C90 Series; special conditions amended
Airmen certification:
30795 Medical standards and certification procedures; review of regulations
30793 Rulemaking petitions; summary and disposition
NOTICES
30908 Air carriers; random drawing to determine priority sequence for temporary airport arrival slots (Braniff slots)
Environmental statements; availability, etc.:
30906 Barnstable Municipal Airport, Hyannis, Mass.; extension of runway 15–33; scoping meeting
30956 Exemption petitions; summary and disposition; correction
30956 Exemption petitions; summary and disposition; republication

Federal Communications Commission
NOTICES
30912 Meetings; Sunshine Act

Federal Deposit Insurance Corporation
NOTICES
30912, 30913 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
30913 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood elevation determinations:
30772 Alaska et al.
30764 Arkansas et al.
NOTICES
Radiological emergency; State plans:
30868 Michigan
30869 Texas

Federal Energy Regulatory Commission
RULES
Natural gas companies (Natural Gas Act):
30724 Pipelines, interstate; certificates for routine transportation; correction and approval of reporting requirements
Natural Gas Policy Act:
30725 Agricultural users, essential; determination of alternative fuels; rehearing denied
NOTICES
Hearings, etc.:
30861 American Electric Power Service Corp. et al.
30862 Centel Corp.
30862 Gulf States Utilities Co.
30866 Ohio Edison Co.
Natural Gas Policy Act:
30846, 30855 Jurisdictional agency determinations (2 documents)

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
30907 Bernalillo County, N. Mex.; intent to prepare
30907 Nashville, Davidson County, Tenn.; intent to prepare

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
30750 Mutual mortgage insurance and rehabilitation loans; mortgage insurance premium (MIP), annual; monthly installment payments

Federal Reserve System
RULES
30719 OTC margin stocks; list (Regulations G, T, U, and X)
NOTICES
Applications, etc.:
30870 Commercial Bancshares, Inc., et al.
30871 F.C.B. Holding Co. et al.
30869 First Bancorporation of Ohio et al.
30872 Tekamah Agency Co.
Bank holding companies:
30872 Futures commission merchant activities; proposal withdrawn
Bank holding companies; proposed de novo nonbank activities:
30870 Chemical New York Corp. et al.
30871 Citicorp et al.
30913 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
RULES
Prohibited trade practices:
30723 Onkyo U.S.A. Corp.
NOTICES
30913, 30914 Meetings; Sunshine Act (3 documents)
Premerger notification waiting periods; early terminations:
30873 Philip Morris, Inc.

Fish and Wildlife Service
RULES
Endangered Species Convention:
30787 Bobcat; export findings; 1981–1982 season; suspension
30782 Permit regulations; consolidation and simplification, application fee schedule, and formal appeals procedure
NOTICES
Meetings:
30879 Migratory bird hunting

General Services Administration
NOTICES
Public utilities; hearings, etc.; proposed intervention:
30873 Massachusetts Public Utilities Department

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
30880 Oil and gas information program; Alaska leasing regions; index availability

Health and Human Services Department
See Health Care Financing Administration; Human Development Services Office; Public Health Service; Social Security Administration.

Health Care Financing Administration
RULES
Medicaid:
30764 Medically needy individuals; eligibility determinations; correction

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Human Development Services Office
RULES
30922 Child welfare services; foster care maintenance and adoption assistance
PROPOSED RULES
30932 Child welfare services; foster care maintenance and adoption assistance

Indian Affairs Bureau
RULES
Off-reservation treaty fishing:
30755 Fraser River Convention sockeye and pink salmon fishery

Interior Department
See Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
30796 Low income housing; amortization of rehabilitation expenditures

International Trade Commission
NOTICES
30914 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
30882 Permanent authority applications
Railroad services abandonment:
30884 Baltimore & Ohio Railroad Co.
Rerouting of traffic:
30884 Michigan Interstate Railway Co. et al.

Justice Department
NOTICES
Pollution control; consent judgments:
30885 Carolina Stalite Co.

Land Management Bureau
NOTICES
Alaska native claims selections:
30874 Final allocations to regional corporations
Classification of public lands:
30878 Oregon
30877 South Dakota
Coal leases, exploration licenses, etc.:
30874 Illinois
30879 Utah
Environmental concern; designation of critical areas:
30879 Northern California Coast Range Preserve
30878 Savery, Wyo.; coal preference right lease application; scoping meetings
Exchange of public lands for private land:
30875 Montana
Meetings:
30875 Miles City District Grazing Advisory Board
30879 Worland District Grazing Advisory Board
Sale of public lands:
30875 Montana
30876 New Mexico
Withdrawal and reservation of lands, proposed, etc.:
30875 Oregon; correction

Minerals Management Service
NOTICES
Meetings:
30880 Outer Continental Shelf Advisory Board
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
30880 Texaco U.S.A.

National Capital Planning Commission
PROPOSED RULES
30790 Freedom of Information Act; implementation

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
30908 General Motors Corp. (2 documents)

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
30788 Ocean salmon off coasts of Calif., Oreg., and Wash.
NOTICES
Meetings:
30804 South Atlantic Fishery Management Council

National Park Service
NOTICES
Management and development plans:
30881 Santa Monica Mountains National Recreation Area, Calif.

National Science Foundation
NOTICES
Meetings:
30885 Earth Sciences Advisory Committee
30886 Environmental Biology Advisory Panel
30886 Policy and Research and Analysis and Science Resources Studies Advisory Committee

National Technical Information Service
NOTICES
30805 Inventions; Government-owned; availability for licensing

Patent licenses, exclusive:
30805 Albany International Corp.

National Transportation Safety Board
NOTICES
30886 Accident reports, safety recommendations and responses, etc.; availability

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
30758 USS Baltimore
30759 USS Hercules
30759 USS Stark
NOTICES
Senior Executive Service:
30810 Performance Review Board; membership

Nuclear Regulatory Commission
NOTICES
30888 Agency forms submitted to OMB for review
Applications, etc.:
30887 Commonwealth Edison Co.

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
30914 Meetings; Sunshine Act

Pension Benefit Guaranty Corporation
RULES
Plan benefits valuation:
30757 Non-multiemployer plans: interest rates and factors

Postal Service
RULES
International mail:
30760 Bahrain; express mail rates; interim rule and request for comments

Public Health Service
RULES
30950 Health service area boundaries revision; interim
NOTICES
30873 Inventions made under grants, contracts, and cooperative agreements; nonprofit and small business preference option eligibility

Research and Special Programs Administration, Transportation Department
PROPOSED RULES
Hazardous materials:
30800 Aircraft, passenger-carrying; carriage of tear gas devices; personal protection devices; withdrawn
30799 Trailer-on-Flatcar (ITOFC) service; withdrawn

Securities and Exchange Commission
NOTICES
Hearings, etc.:
30888 Bank Equity Trust Fund, Inc.
30888 Bank Fixed-Income Trust Fund, Inc.
30889 Columbia Gas System, Inc.
30890 Equitec Fund, Inc.
30890 Insurors Mutual Fund, Inc.
30891 James River Corp. of Virginia et al.
30898 Massachusetts Mutual Variable Annuity Fund 4 et al.
30892 Money Express Reserve Fund
30894 National Cash Reserves, Inc.
30901 National Fuel Gas Co. et al.
30902 North River Securities Co., Inc.
30896 Oppenheimer Fund, Inc., et al.
30902 Prudential Insurance Co. of America et al.
Self-regulatory organizations; proposed rule changes:
30894 Municipal Securities Rulemaking Board
30897 Pacific Clearing Corp.

Small Business Administration
NOTICES
Applications, etc.:
30905 C. H. Capital Corp.
30905 RIHT Capital Corp.
Disaster loan areas:
30905 New Jersey
30906 Privacy Act; systems of records

Social Security Administration
RULES
Social security benefits:
30731 Computing primary insurance amounts, etc.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent and interim regulatory programs:
30797 Surface coal mining, unsuitable areas; designation and termination procedures, etc.; cancellation of hearing

Tennessee Valley Authority
NOTICES
30914 Meetings; Sunshine Act

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.
RULES
Organization, functions, and authority delegations:
30781 General Counsel; review of decisions of Maritime Subsidy Board

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
30910 Agency forms submitted to OMB for review

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.

1 CFR
302 30701
305 30701
310 30701
Proposed Rules:
456 30790

3 CFR
Administrative Orders Memorandums:
July 12, 1982 30699

7 CFR
908 30715
Proposed Rules:
967 30792

10 CFR
317 30716
710 30717
Proposed Rules:
430 30793

12 CFR
207 30719
220 30719
221 30719
224 30719

14 CFR
39 30720
91 30946
97 30721
Proposed Rules:
Ch. I 30793
21 30794
67 30795

16 CFR
13 30723

18 CFR
157 30724
281 30725
284 30724
375 30724

20 CFR
404 30731

24 CFR
202a 30750
203 30750
204 30750
209 30750
211 30750
221 30750
228 30750
235 30750

25 CFR
249 30755

26 CFR
Proposed Rules:
1 30796

29 CFR
2619 30757

30 CFR
Proposed Rules:
736 30797
760 30797
761 30797
762 30797
764 30797
765 30797
769 30797

32 CFR
706 (3 documents) 30758, 30759

39 CFR
10 30760

40 CFR
52 (2 documents) 30761, 30762
81 30762
Proposed Rules:
52 30798
60 30799
122 30799
123 30799
124 30799

42 CFR
122 30950
435 30764

44 CFR
67 (2 documents) 30764, 30772

45 CFR
1355 30922
1356 30922
1357 30922
1392 30922
Proposed Rules:
1355 30932
1356 30932
1357 30932
1392 30932

49 CFR
1 30781
Proposed Rules:
Ch. I 30799
175 30800

50 CFR
13 30782
16 30782
17 30782
23 30787
661 30788

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

Presidential Documents

Title 3—

The President

Memorandum of July 12, 1982

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(2) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to subsidy practices of the European Economic Community (EEC) and the Government of France with respect to the export of poultry, which are alleged to be inconsistent with the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code). With a view toward eliminating or reducing the harmful effects of foreign subsidies on poultry exports, I am directing the Office of the United States Trade Representative (USTR) to complete expeditiously its examination of the relationship of subsidized Brazilian poultry exports to the problems U.S. poultry exporters face in competing with subsidized poultry exports in world markets, and to seek a resolution of these problems in the most effective manner, including, as appropriate, the pursuit of dispute settlement procedures of the Subsidies Code. I am further directing USTR to report on the status of efforts to resolve this issue no later than September 30, 1982.

Statement of Reasons

The Office of the United States Trade Representative initiated an investigation under Section 301 on October 28, 1981 (46 FR 54831) on the basis of a petition filed by the National Broiler Council, et al.

The petition sets forth three basic allegations: (1) EEC export subsidies violate Article 10:1 of the Subsidies Code in that the EEC, through such subsidies, has obtained more than an equitable share of world trade in whole chickens and has displaced U.S. whole chicken exports; (2) EEC export subsidies violate Article 10:3 of the Subsidies Code in that they result in prices for whole chickens materially below U.S. prices in specific markets; and (3) EEC export subsidies threaten serious prejudice to U.S. poultry interests in violation of Article 8 of the Subsidies Code. Serious prejudice is alleged to result from the recent expansion of both the product coverage of the EEC subsidy scheme to include chicken parts, turkey and turkey parts and of the geographic coverage to include exports to the entire world except the U.S. Serious prejudice is further alleged to result from failure of the EEC subsidy scheme to limit the level of the subsidy or to discourage excess production of poultry. The petitioner further alleges that the Government of France has provided export subsidies on poultry.

With the aid of subsidies the EEC has been able to capture large segments of the world market for whole chickens. For example, the EEC now accounts for 53 percent of total exports of whole chickens to the Middle East market. Brazil, which first entered this market in 1975, now accounts for 38 percent of total exports. The U.S., as an unsubsidized supplier, has only a 6 percent share.

The U.S. held consultations with the EEC under the Subsidies Code on February 16, 1982. That consultation did not result in a resolution of the U.S. complaint. During the consultations, the EEC claimed that its subsidies on whole chickens were necessary to enable it to compete against Brazilian exports. Therefore, in order to consider the validity of the EEC assertion and

the question of Brazilian poultry exports and their effect on U.S. exports, USTR postponed further action on the EEC case under the dispute settlement provisions of the Subsidies Code.

An initial examination has disclosed that Brazil is a major exporter of whole chickens and that both the production and export of Brazilian chickens are subsidized. In light of this information, the U.S. is seriously considering expanding the scope of the current proceeding to include Brazilian practices. USTR has requested consultations with Brazil on the matter and has requested, under provisions of the Subsidies Code, additional information relating to Brazilian subsidies. USTR is also utilizing the same provisions of the Subsidies Code to obtain further information about the EEC and French subsidies which was not supplied during the February consultations.

In light of the foregoing, I am directing USTR to complete expeditiously its examination of the nature and extent of Brazilian subsidized poultry exports and their effect on U.S. poultry exporters and to proceed in the most effective manner to resolve the problem facing U.S. poultry producers in competing against subsidized poultry in third country markets. I am further directing USTR to report to me on the status of efforts to resolve this issue no later than September 30, 1982. In taking this action I recognize that the ultimate disposition of this issue has been delayed beyond the time frame contemplated under Section 301. However, it is essential that the United States, before further pursuing its international rights in this matter, has developed and thoroughly examined all information relevant to the nature and extent of subsidized poultry exports on the world market.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, July 12, 1982.

[FR Doc. 19424
Filed 7-14-82; 10:11 am]
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Rules and Regulations

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

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 month.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 302, 305 and 310

Recommendations of the Administrative Conference

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-fourth Plenary Session, adopted five recommendations and one statement of views. The Conference also adopted amendments to its bylaw provisions governing attendance and membership. The subjects of these Conference actions are described below. Recommendations of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of Recommendations, together with the texts of those Recommendations deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR 304.2(a)).

DATES: These recommendations and the statement were adopted June 17–18, 1982 and issued July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Twenty-fourth Plenary Session, held June 17–18, 1982, amended its bylaws to strengthen the obligations of attendance by members at plenary sessions and at meetings of its committees. In addition, the previous bylaw provision that not more than ten percent of the public members can be in service beyond three consecutive terms was replaced by a four-term limit for all public members. Finally, a new class of non-voting members, senior fellows, was established. Members who have served eight or more years and former Chairmen, are eligible for appointment as senior fellows.

The Conference also adopted five recommendations and one statement of views.

Recommendation 82–1: Exemption (b)(4) of the Freedom of Information Act calls on Congress to amend the definition of confidential business information to increase the scope of the protection from disclosure that that exemption affords, and to eliminate agency discretion to disclose such information, except where the agency finds that withholding the information would injure an overriding public interest. The recommendation also requests agencies to give advance notice of the possibility of disclosure to submitters, to establish procedures for handling FOIA requests and for considering submitter's views, and for improved rights to judicial review.

Recommendation 82–2: Resolving Disputes under Federal Grant Programs enlarges on prior Conference recommendations and sets out specific procedures for agencies to use in resolving disputes under Federal grant programs expeditiously and fairly.

Recommendation 82–3: Federal Venue Provisions Applicable to Suits against the Government recommends that Congress not amend the venue statutes to make the extent of local impact determinative of proper venue, but Congress should amend such statutes to require notice to attorneys general when actions have a particular impact on their states and to allow intervenors in actions to request transfers of venue. The Conference also recommends that Congress review existing "exclusive venue" statutes individually rather than enact a provision overriding all of them.

Several members of the Conference dissent from this recommendation, and express their support for pending legislation (S. 2419) that would establish "local impact" as relevant to venue decisions. One member concurs in part on somewhat different grounds. The texts of the separate statements appear following the recommendation.

Recommendation 82–4: Procedures for Negotiating Proposed Regulations deals with a new and interesting alternative method of developing regulatory programs—negotiations between all substantially affected interests, with a view to minimizing protracted adversary proceedings and litigation. This recommendation suggests procedures for conducting such negotiations, and commends their use to agencies when particular circumstances suggest a likelihood of success.

Recommendation 82–5: Federal Regulation of Cancer-causing Chemicals suggests a comprehensive set of techniques and procedures for use by several agencies involved in the regulation of carcinogens. The recommendations are categorized into the following subject areas: priority setting; interagency coordination; chemical selection and guidelines for testing and evaluation; advisory panels; generic rulemaking; quantitative assessment of risk, and public participation.

Finally, the statement, "Views of the Administrative Conference on Proposals Pending in Congress to Amend the Informal Rulemaking Provisions of the Administrative Procedure Act," presents the views of the body on several provisions of the pending omnibus regulatory reform bills, H.R. 746, the Regulatory Procedure Act of 1982, and S. 1080, the Regulatory Reform Act.

The transcript of the discussion of these recommendations is available for public inspection at the Conference's offices, at Suite 500, 2120 L Street, NW., Washington, D.C.

List of Subjects

1 CFR Part 302

Bylaws of the Administrative Conference.

1 CFR Part 305

Freedom of Information, Administrative practice and procedure,

grants administration, Venue, Regulatory negotiation, Cancer.

1 CFR Part 310

Administrative practice and procedure, Rulemaking.

PART 302—BYLAWS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 302.2 [Amended]

1. Paragraph (a)(2) of 1 CFR 302.2 is revised to read as follows:

(a) * * *

(2) Each member is expected to devote personal and conscientious attention to the work of the Conference and to attend plenary sessions and committee meetings regularly. When a member has failed to attend two consecutive Conference functions, either plenary sessions, committee meetings, or both, the Chairman shall inquire into the reasons for the non-attendance. If not satisfied by such reasons, the Chairman shall: (a) In the case of a Government member, with the approval of the Council, request the head of the appointing agency to designate a member who is able to devote the necessary attention; or (b) in the case of a non-Government member, with the approval of the Council, terminate the member's appointment, provided that where the Chairman proposes to remove a non-Government member, the member first shall be entitled to submit a written statement to the Council. The foregoing does not imply that satisfying minimum attendance standards constitutes full discharge of a member's responsibilities, nor does it foreclose action by the Chairman to stimulate the fulfillment of a member's obligations.

* * * * *

2. Paragraph (b) of 1 CFR 302.2 is revised to read as follows:

* * * * *

(b) *Terms of Non-Government Members.* The terms of non-Government members, who are appointed by the Chairman with the approval of the Council, shall terminate at 2-year intervals from June 30, 1970. No non-Government members, other than senior fellows, shall at any time be in continuous service beyond four full terms.

* * * * *

3. Section 302.2 of 1 CFR is further amended by the addition of a new paragraph (e), at the end of the existing section, to read as follows:

* * * * *

(e) *Senior Fellows.* The Chairman may, with the approval of the Council, appoint persons who have served as members of the Conference for eight or more years, or former Chairmen of the Conference, to the position of senior fellow. The terms of senior fellows shall terminate at 2-year intervals from June 30, 1970. Senior fellows shall have all the privileges of members, but may not vote.

§ 302.5 [Amended]

4. (a) Paragraph (a)(1) of 1 CFR 302.5 is amended by revising the first sentence in that paragraph to read as follows:

(a) * * *

(1) Non-Government members (including senior fellows) may be deemed to be special government employees within the meaning of 18 U.S.C. 202 and subject to the provisions of §§ 201–224 of Title 18 U.S.C., in accordance with their terms * * *.

* * * * *

(b) Paragraph (a) of 1 CFR 302.6 is revised to read as follows:

§ 302.6 [Amended]

(a) *Meetings.* All sessions of the Assembly shall be open to the public. Privileges of the floor, however, extend only to members of the Conference, to senior fellows, to liaison representatives, to consultants and staff members insofar as matters on which they have been engaged are under consideration, and to persons who, prior to the commencement of the meeting have obtained the approval of the Chairman and who speak with the unanimous consent of the Assembly.

* * * * *

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

5. The table of contents to Part 305 of Title 1, CFR is amended to add the following new sections:

Sec.

305.82–1 Exemption (b)(4) of the Freedom of Information Act (Recommendation No. 82–1).
305.82–2 Resolving Disputes Under Federal Grant Programs (Recommendation No. 82–2).
305.82–3 Federal Venue Provisions Applicable to Suits Against the Government (Recommendation No. 82–3).
305.82–4 Procedures for Negotiating Proposed Regulations (Recommendation No. 82–4).
305.82–5 Federal Regulation of Cancer-causing Chemicals (Recommendation No. 82–5).

6. Section 305.82–1 is added to Part 305, as follows:

§ 305.82–1 Exemption (b)(4) of the Freedom Of Information Act (Recommendation No. 82–1).

The Freedom of Information Act (FOIA) allows public access to the records of federal agencies, whether such records are generated by the agencies or obtained by the agencies from other sources, including private individuals. Large numbers of FOIA requests are made by or on behalf of commercial interests seeking to utilize the government's processes to acquire information that has been prepared at the expese of private firms and individuals and submitted to the government as part of a study or pursuant to a regulatory requirement or other government information-gathering program. Often the privately submitted government records subject to FOIA disclosure contain information which will lose value to the submitter if it is disclosed. This availability of FOIA as a tool for low-cost commercial information-gathering—or, in some instances, industrial espionage—needs to be limited.

Exemption (b)(4) of FOIA permits agencies, as a matter of discretion, to withhold trade secrets and commercial or financial information obtained from a person which is privileged or confidential. Although FOIA contains procedural safeguards and a right of judicial review for requesters of agency records, the Act is silent regarding the rights of submitters of information whose legitimate interests may be impaired as a result of public disclosure of their information. Submitters are insecure about the degree of protection their information will receive when it is in the government's possession, and agency collection of private information may be hindered due to reluctance on the part of submitters to trust that the government will not disclose valuable documents.

While the Administrative Conference strongly endorses the FOIA concept of exposure of the government's activities, the disclosure of information created by private persons involves different values. Private needs and public access desires are in conflict in this limited area of FOIA disclosures. Congress should amend exemption (b)(4), both to insure that the private rights of submitters of information are adequately protected and to provide for a more efficient decision-making process within the government for disposing of claims regarding the applicability of exemption (b)(4).

Scope of the Exemption

Information deserving protected treatment under exemption (b)(4) has four characteristics. First, it is "private" information: the records in the government's possession were created by a "person" and submitted to the government, rather than generated internally within an agency.[1] The

[1] In an instance where one government agency submits analogous information to another agency, the information should be considered "private" for these purposes. A government entity that operates in a commercial, and perhaps highly competitive, marketplace will have interests of the same kind as if it were privately owned, and should receive similar protection.

information need not be "about" the submitter—an example is a submitter's analysis of market conditions in a market where the submitter does no business—but the information must be such that it is ordinarily considered to be the "property" of the submitter, i.e., except for the government's possession, the submitter has an exclusive right to dispose of the information.

Second, the information is, in the ordinary colloquial sense, "confidential". It is held by the government in confidence and is not already in the public domain as a result of lawful disclosure by the government or by others, nor is it required by law to be made public.

Third, the information will have value to the submitter that disclosure threatens to diminish. It should not be necessary for a submitter to prove that the value loss will be "substantial", or to demonstrate the precise manner in which persons receiving access to the information may use the information to cause injury to the submitter. Such requirements impose unreasonable burdens upon submitters, strain the capacity of the decision-making process, and do not produce predictable results. It should be enough that the submitter have a valuable interest in the information, and that disclosure may reasonably be expected to impair that interest. In this respect, due regard should be given both to the probability and to the magnitude of impairment; thus the greater the harm potentially resulting from disclosure, the less need a showing be made of the certainty of occurrence of the harm, and vice versa.

In addition to the traditional "commercial" and "financial" interests that may be jeopardized by the disclosure of confidential information, "business" information—a bit of commercially relevant information which alone appears insignificant but which, when combined with other bits, can reveal important business data—appropriately should come within exemption (b)(4). And "research" information, whether submitted by a commercial or non-commercial person, should be recognized to have value to the submitter and to be deserving of protection.

Fourth, the interests to be protected by (b)(4) must be "legitimate". The exemption should not be used to shield evidence of unlawful activities, fraud, waste, or government mismanagement. This condition is necessary to insure the availability of FOIA as an effective means of the public's oversight of government, while protecting those private interests that legitimately are not in the public domain.

Agencies currently have discretion, subject to the limitations of the Trade Secrets Act (18 U.S.C. 1905), to release a submitter's exempt (b)(4) information, even though disclosure might cause damage to the submitter. The Conference, believes, however, that valuable private information in the government's files should not be subject to release under FOIA, except where disclosure is necessary to prevent injury to an overriding public interest. This limited power of discretionary release should be exercised with caution, and agencies should conduct public interest inquiries only when a strong initial showing has been made that an adequate basis for discretionary disclosure is likely to exist.

Finally, the Conference proposes to clarify further the scope of agencies' discretion to disclose confidential information by amendment of the Trade Secrets Act to eliminate any potential conflict between the two acts and to establish FOIA as the statute controlling agency release of cofidential information to a requester.

The Decisionmaking Process

Selecting administrative and judicial processes that will provide both fair and efficient resolutions of particular controversies requires a careful examination of the institutional capabilities available for decision-making. A decision by the government whether to invoke exemption (b)(4) is not a typical agency program decision. In situations where a FOIA request involves contested (b)(4) information, agencies frequently act merely as stakeholders, and do not necessarily provide a proper forum for prompt and accurate decision-making. The matters to be decided often are outside the expertise of agency officials. For example, "impairment" of a protected interest could take the form of exposure of a secret manufacturing process, or it could be released of a consumer attitude survey that reveals the potential profitability of a new product, or it might involve disclosing the number of employees working on a particular assembly line where knowledge of the number could aid a competitor correctly to estimate manufacturing costs for the assembled product. Agency personnel most likely to be called upon to evaluate claims of exempt status will be program officials or FOIA officers, neither of which is likely to have a fundamental appreciation of the value of private information in the commercial marketplace.

The interests of requesters of information under FOIA, including possible (b)(4) information, have been and will continue to be best served by providing speedy informal agency action followed by a right of de novo judicial review of adverse agency decisions. Prudence and justice require that, when submitters become involved in a FOIA request, the procedures and standards of decision-making be the same as for cases involving requesters only.

Considering these factors, the Administrative Conference favors informal agency processes sufficient to prevent inadvertent releases of exempt material to a requester, to join the issues adequately, and, when feasible, to provide a prompt resolution of disputes, coupled with rights for both submitters and requesters to obtain de novo review in the district courts of adverse agency decisions regarding the applicability of exemption (b)(4) to requested information.

The Conference stresses the importance of considering agency procedures in tandem with the scope of judicial review. In this recommendation, the Conference has taken care to match an informal agency process—i.e., one that does not result in the creation of a detailed agency record—with an opportunity for de novo judicial review unlimited in its scope to consider the matters at issue.

However, different factors apply to an agency determination to disclose, on the ground of preventing harm to an overriding public interest, information that is unquestionably exempt under (b)(4). In such an instance, the required balancing of interests—harm caused by non-disclosure against harm caused by disclosure—is more likely to result in the creation of a reviewable record. Here an agency may consider the public use to which the information will be put, as claimed by the requester, as well as all potential private uses of all users of the information, once it is disclosed. Balancing the public's needs against individual costs in this fashion involves matters appropriately committed to an agency's determination, and the Conference recommends that the scope of judicial review of an agency decision to disclose exempt (b)(4) information be limited to whether the agency action is "arbitrary or capricious".

The Conference rejected, after careful consideration, the possibility of creating a new judicial cause of action that would permit requesters to bring suit to compel an agency to release exempt (b)(4) information. At present requesters have no right to compel disclosure of information falling within any of the FOIA exemptions, and a rule to the contrary regarding exemption (b)(4) would likely be accompanied by great confusion regarding the status of confidential information (a problem sought to be eliminated by this recommendation), and could well result in a flood of new FOIA litigation.

At the agency level, fundamental fairness requires that submitters be given notice of an intended agency release of their information whenever there is a reasonable possibility that the information is covered by exemption (b)(4). Such a notice requirement should be included within FOIA. Agency information gathering and handling procedures vary greatly, however, and the details of providing notice are more appropriately determined by individual agencies through the rulemaking process. Further, there is such a wide variation in the types of information subject to the exemption, and in the criteria appropriate to establish a claim of exempt status, that each agency should give individual consideration to techniques that will best facilitate its own disposition of determinations under the exemption.

The additional procedural protections recommended here will require that the statutory time limits in FOIA be adjusted accordingly, at least for documents involving the (b)(4) exemption. While the Conference makes no recommendation with respect to specific intervals of time, the interests of prompt agency response and government credibility will require that more realistic limits be set by Congress.

Nothing in this recommendation is intended to diminish the ability of requesters, whose rights are established independently under FOIA, to obtain access to non-exempt agency records. Requesters would remain entitled to disclosure of privately submitted agency records absent a determination that (b)(4)—or some other exemption—applies. Where an agency does not assert a claim of

exempt status for a submitter's information, the burden will be on the submitter to assert a right to exempt treatment, to demonstrate the applicability of the exemption, and to persuade the agency or judicial decision-maker that the information should not be disclosed.

RECOMMENDATION

A. Scope of the Exemption

1. Coverage. Congress should amend exemption (b)(4) of FOIA to provide that the exemption applies to confidential information submitted to the government by a person and for which disclosure may reasonably be expected to impair the legitimate commercial, financial, business, or research interests of that person. (This recommendation is not intended to affect other laws that control the disclosure of specific agency records.)

2. Discretion to Disclose. The Act should be amended to eliminate agency discretion to disclose exempt (b)(4) information to a requester, except that agencies should be permitted to disclose otherwise exempt (b)(4) information (i) when the submitter agrees to waive exempt status, or (ii) when the agency finds that to withhold the information would injure an overriding public interest. To eliminate confusion caused by the interrelation of FOIA and the Trade Secrets Act (18 U.S.C. 1905) Congress should amend the Trade Secrets Act to make clear that it does not authorize withholding under exemption (b)(3) of FOIA and does not inhibit discretionary disclosure of material under exemption (b)(4).

B. Agency Procedures

1. Notice. Congress should amend FOIA to require that, prior to a final agency decision to disclose to a requester information that may fall within exemption (b)(4), the agency provide the submitter with notice adequate to permit the submitter to object to the disclosure. This amendment should also require that agencies specify by rule those instances in which a submitter is entitled to notice, the rules to include, at a minimum, instances in which, for the particular information requested, the submitter (i) has made a prior claim of exempt (b)(4) status, or (ii) had submitted the information under a promise of confidentiality, of (b)(4) treatment, or of notice of a FOIA request. In addition, agencies should consider whether, in some instances, it would be appropriate routinely to give notice to submitters of all requests for the submitters' data, so that the agencies will always have the benefit of the submitters' opinions on the applicability of (b)(4).

2. Agency Information Handling Procedures. Agencies should encourage the use of pre-marking by submitters to aid in the identification of materials that may be subject to exemption (b)(4). Congress should amend FOIA to authorize each agency to determine, by rule, whether pre-marking should be made a pre-condition for notice of pending disclosure; such rules should be based on a consideration of the nature of information subject to (b)(4) as well as the characteristics of those who submit it. Agencies should investigate whether certain routinely collected categories of information may appropriately be designated by rule as ordinarily subject to disclosure without notice, or ordinarily subject to withholding under exemption (b)(4); an agency using categories established by rules must bear in mind that such rules, which may greatly facilitate the handling of large volumes of requests in some cases, cannot override the FOIA itself and must provide that, prior to making a final decision on disclosure, the agency will, upon specific request, review particular documents to determine their exempt status. Agencies that handle large volumes of requests for information likely to contain (b)(4) exempt material should consider establishing, by rule, the nature of substantiation that would ordinarily be required to support a claim of exempt (b)(4) status.

3. Determination of Exempt Status. Congress should amend FOIA to provide for written objections by a submitter in instances of contested (b)(4) determinations. In making determinations on the applicability of exemption (b)(4), agencies should use informal techniques, and should avoid utilizing time-consuming adversarial methods. During the decision-making process, agencies must be sensitive to the special problems of both submitters and requesters. Agency procedures must not disclose to a requester the basis of a claim of exempt status when disclosure of the basis itself would compromise the confidentiality of the information. On the other hand, agencies should bear in mind that a requester does not ordinarily have access to such information as may be necessary to challenge a submitter's claim of exempt status. In order to facilitate informal agency resolution of potential conflicts between requesters and submitters, agencies should provide that, whenever possible, a requester receive and be permitted to comment upon a submitter's written objections to release, and to be present at oral hearings, if any, on the subject, as long as this does not compromise the confidentiality of the information.

4. Discretionary Release of Exempt Information. Once information has been determined to be exempt under (b)(4), a FOIA requester desiring to obtain disclosure of the information on the ground that non-disclosure would injure an overriding public interest should bear a definite burden to demonstrate with specificity the basis for the request. A pro forma assertion of public injury due to non-disclosure should not be sufficient to trigger an agency inquiry. In considering whether to exercise its limited discretion to disclose otherwise exempt (b)(4) material, an agency appropriately may consider all potential uses to which the disclosed information may be put, and should balance any probable public harm in non-disclosure against probable harm to the submitter, the government, and others due to disclosure.

5. Final Decision to Disclose. Congress should amend FOIA to provide that a final agency decision to disclose information alleged by the submitter to be exempt under exemption (b)(4) be made by an agency official of a rank equivalent to that of the agency official authorized to deny a request for disclosure. Agencies should consider utilizing the same appeal process within the agency for submitter-contested cases as that used whenever a requester challenges a decision not to disclose.

6. Agency Implementation. Pending congressional enactment of the changes recommended herein, agencies should, to the extent permitted by law, immediately adopt all of the above proposals for improved agency procedures.

C. Judicial Review

1. Cause of Action. Congress should amend FOIA to provide that both submitters and requesters of a contested piece of (b)(4) information have a cause of action under FOIA, that each may intervene in suits brought by the other, and that opposing claims of submitter and requester can be resolved in a single forum.

2. Scope of Review. Congress should amend FOIA to provide that agency determinations regarding the applicability of exemption (b)(4) be subject to de novo consideration by the courts. Agency decisions to release exempt information to a requester, on the ground that non-disclosure would injure an overriding public interest, should be made reviewable at the instance of submitters of the information under the "arbitrary or capricious" standard in 5 U.S.C. 706(2)(A).

7. Section 305.82–2 is added to Part 305 as follows:

§ 305.82–2 Resolving Disputes Under Federal Grant Programs (Recommendation No. 82–2).

Federal grants to governments, public service institutions and other non-profit organizations have been conspicuous instruments of federal policy since the 1930s. During the past two decades the growth in the number of federal grant programs, and the level of resources distributed through grants, has evidenced the expanded influence of the federal government on the activities of these entities.

Ensuring proper conduct of federal assistance programs has assumed increasing importance as these extraordinarily varied programs have proliferated. Federal domestic grant spending, which now exceeds $100 billion annually, promotes major social goals. Grants, and the activities they assist, often are crucial to beneficiaries whom Congress intends to aid and to recipients who carry out program goals. For instance, over one-quarter of all expenditures by state and local governments now come from federal grants, and thousands of smaller institutions depend on these funds for their very existence.

Each of these grants represents an understanding on the part of the federal government and the grantee that is in the nature of a contractual commitment. The number and intensity of disputes over grants have risen in recent years, following both the increased reliance on federal grants by other institutions and a growing federal budget stringency that has decreased the generosity of federal funding and increased the rigor of audit review. These disputes run the gamut from those that involve nearly pure questions of federal policy and agency discretion to those that affect substantial grantee

expectations or involve particularized adverse determinations about individuals.

Disputes may arise initially over the making or withholding of a grant, the amount of funds committed, or the terms and conditions imposed. Once the grantee has undertaken the project, controversies may occur over what actions the grantee has been funded or authorized to take, the grantee's relationships with program beneficiaries, subgrantees, or subcontractors, and other incidents of ongoing project administration, including grantee compliance with the terms and conditions of the grant. Disputes may arise in the form of audit disallowances. Finally, an agency may choose to terminate or debar a grantee or refuse to provide continued funding based on the agency's belief about the adequacy of a grantee's performance of previous projects.

In prior recommendations, the Administrative Conference has called on all federal grantmaking agencies to adopt informal procedures for hearing and resolving complaints by the public that a recipient's administration of a grant fails to meet federal standards (Recommendations 71–9 and 74–2). While some agencies have carried out these recommendations, many still do not afford grantees or other persons affected by the operation of federal domestic grant programs any channels for impartial consideration of their complaints. Congress has provided few directives in this area, except as to a few agencies like the Departments of Education and Labor, and actual agency practices in handling grant disputes have varied considerably.

This recommendation goes beyond the Conference's prior statements to focus on the rights that agencies should provide to grantees and applicants for grant funds. Few agencies afforded grant recipients any substantial appeal rights until the mid-1970's; some still fail to do so. In recent years, several agencies have begun to create processes to resolve some types of disputes with grantees and certain types of grant applicants. Their experience indicates that these appeal procedures, while sometimes flawed, have been useful for protecting grantees' rights and for helping agencies to avert needless and troublesome litigation, improve oversight of significant administrative problems, ensure that policies are applied fairly and consistently, and make decisions on a rational, justifiable basis.

Given the importance of these programs, the nature of the interests involved, public policy factors, and considerations of fairness enunciated in recent constitutional decisions, the Administrative Conference believes that all grantmaking agencies should maintain procedures to hear appeals regarding certain kinds of agency actions. For example, grantees generally have a special interest in debarment, termination, suspension, or certain kinds of renewal or entitlement situations. Also, disputes regarding some expenditure disallowances arising from audits, or other cost and cost rate determinations, may be crucial to a grantee, requiring payback of large sums. Because of the potential significance of these types of action, and their relative infrequency, agencies should establish appeals procedures for them. On the other hand, thousands of applications for competitive discretionary grants are denied each year, and the imposition of any broad appeal hearing requirement for this type of action could be quite burdensome to some agencies.

While the variety and complexity of federal domestic grant programs (and grant disputes) ultimately renders uniform procedural prescriptions inappropriate, this recommendation sets forth some general considerations that agencies should find useful to guide them in assessing the adequacy of their present methods of resolving grant appeals. The Conference believes that an agency should have considerable latitude to tailor procedures to the characteristics of its programs and grantees, and in the great bulk of appeals agencies need not match the protections required in adjudications governed by the Administrative Procedure Act, 5 U.S.C. 554–557. The recommendation begins with, and centers on, the notion that informal action—including opportunities for conversations with relevent program officials and their superiors, mediation or ombudsman services, and similar devices—should form the core of the resolution process. Still, agencies should be aware that at least some disputes may arise, especially in post-award cases involving contested issues with substantial funds at stake, in which some kind of more formal agency review should be made available.

In making this recommendation, the Conference is aware that some agencies maintain appeal procedures which are more elaborate than those described below but provide equal or greater safeguards and protective measures. This recommendation is not intended to cast any doubt on the propriety of such procedures, or to assess the need therefor in light of specific programs or agency goals and concerns.

RECOMMENDATION

I. Scope and Intent of the Recommendations

The recommendations in Part II concern procedures for disputes involving domestic "grantees" and "vested applicants." A "grantee" may be a non-profit or community service organization, a unit of state or local government, a school, corporation or an individual who has executed a grant agreement or cooperative agreement with a federal agency. A "vested applicant" is one who is entitled by statute to receive funds, provided the applicant meets certain minimal requirements; or one who applies for a noncompetitive continuation grant, and has been designated in some manner as the service deliverer for a designated area or is operating within a designated multi-year project period. Part III deals with agency-level processes for handling complaints by disappointed applicants for discretionary grant funds. The procedures recommended herein are not intended to displace existing hearing mechanisms already required by law in some programs. They apply only to grant programs carried on primarily within the United States.

II. Complaints by Grantees and Vested Applicants

A. Informal Review and Dispute Resolution Procedures

1. Each federal grantmaking agency should provide informal procedures under which the agency may attempt to review and resolve complaints by grantees and vested applicants without resort to formal, adjudicatory procedures. The informal procedure could take several forms, including, for example, advance notice of adverse action and the reasons for the action, opportunity to meet with the federal officials involved in the dispute, review by another or higher-level agency official, or use of an ombudsman or mediator. Attempts to resolve disputes under these informal procedures should be pursued expeditiously by the agency within a definite time frame. Notwithstanding these time limits, a complainant's invocation of more formal appeal procedures should not prevent further efforts to settle, mediate, or otherwise resolve the dispute informally.

2. The existence of informal review procedures should be made known to affected grantees and vested applicants in the manner described in paragraphs 3 and 12, below. Agencies should encourage their program and decisional officials to resolve grievances informally, and provide training to improve their abilities to do so. In undertaking such training, agencies should work with those agencies that already have begun to make use of mediation and other conciliatory approaches, such as the Departmental Grant Appeals Board in the Department of Health and Human Services, and existing groups with expertise in these methods of dispute resolution.

B. Notice of Agency Action

3. Upon issuance of an agency decision which (if not appealed) represents final agency action, each grantmaking agency should provide prompt notice of its action to the affected grantee or vested applicant. If the action is adverse to a grantee or vested applicant, the agency's notice, at a minimum, should provide a brief statement of the legal or factual basis for the action; state the nature of any sanctions to be imposed; and describe any available appeal procedures, including applicable deadlines and the name and address of the agency official to be contacted in the initial stages of an appeal.

C. Administrative Appeal Procedures

4. Each federal grantmaking agency should provide the additional opportunity for some type of administrative appeal in at least certain kinds of grant-related disputes. This appeal may be conducted orally or in writing, depending on the nature of the dispute, and may be expedited where appropriate. In determining whether an administrative appeal should be afforded and the form of any such appeal for particular classes of disputes, agencies should consider the probable impact of the adverse action on the complainant, the importance of procedural safeguards to accurate decisionmaking in each class of dispute, the probable nature and complexity of the factual and legal issues, the financial and administrative

burden that would be imposed upon the agency, the need for a perception of the government's fairness in dealing with grantees and vested applicants, and the usefulness of appeal procedures to give feedback on administrative problems.

5. In light of the factors described in paragraph 4, each federal grantmaking agency should provide the opportunity for some kind of administrative appeal with regard to adverse actions involving:

a. The performance of an existing grant, including disputes involving debarment, termination, suspension, voiding of a grant agreement, cost disallowances, denials of cost authorizations, and cost rate determinations;

b. The denial of funding to applicants for entitlement grants, including disputes involving the applicant's eligibility, amount of funding to be received, and application of award criteria or pre-established review procedures; and

c. The denial of applications for noncompetitive continuation awards where the denial is for failure to comply with the terms of a previous award.

6. Where an opportunity for an administrative appeal is afforded, the agency should take into account the factors set forth in paragraph 4 and select from among the following forms of proceedings to provide the one most appropriate to the particular case:

a. Decision based on written submissions only;

b. Decision based on oral presentations;

c. Decision on written submissions plus an informal conference or oral presentation; or

d. Full evidentiary hearing.

Where a hearing or conference is useful to resolve certain issues, the agency may limit the hearing to those issues and treat remaining questions less formally. In addition, the agency should provide some form of discretionary expedited appeal process for disputes. In such proceedings, the agency may, for example, shorten time deadlines, curtail record requirements, or simplify procedures for oral or written presentations.

7. At a minimum, these administrative appeal procedures should afford grantees and vested applicants the following:

a. Written notice of the adverse decision (See paragraphs 3 and 12);

b. An impartial decisionmaker (for instance, a grant appeals board member, a high level agency official, a person from outside the agency, an administrative law judge, or certain other agency personnel from outside the program office), with authority to conduct the proceedings in a timely and orderly fashion;

c. Opportunity for the agency, complainant and any other parties to the appeal promptly to obtain information from each other, and to present and rebut significant evidence and arguments;

d. Development of a record sufficient to reflect accurately all significant factual submissions to the decisionmaker and provide a basis for a fair decision; and

e. Prompt issuance of a written decision stating briefly the underlying factual and legal basis.

8. Each federal grantmaking agency should determine in advance, and specify by rule or order, the scope of the authority delegated to the decisionmaker in administrative appeals. For example, agencies should specify in advance whether the decisionmaker has the authority to review the validity of agency regulations or the consistency of agency actions with governing statutes.

9. Agencies should accord finality to the appeal decision, unless further review is conducted promptly pursuant to narrowly drawn exceptions and in accordance with preestablished procedures, criteria and standards of review. If the decisionmaker is delegated, or asserts, authority to review the validity of agency regulations, the agency head should retain an option for prompt final review of the decision in accordance with applicable procedures.

10. Once these administrative appeal procedures are invoked, the decisionmaker should discourage all ex parte communications on the appeal unless the parties consent to such communications. Any ex parte communications that do occur should be disclosed promptly, and placed in the appeal record.

11. Agencies should encourage prompt decision of appeals by creating time limits or other guidelines for processing grant disputes, and should pay particular attention to resolving appeals over decisions regarding renewal and continuation grants in a timely manner. These timetables might be fixed generically or in accordance with the complexity of particular cases. Decisionmakers' compliance should be monitored by the agency pursuant to a regular caseload management system.

D. Public Notice

12. Grantmaking agencies should give advance notice and afford an opportunity for public comment in developing informal review and administrative appeal procedures. Agencies should ensure that available procedures are made known to grantees and vested applicants. Notice of such procedures should be published in the **Federal Register**, codified in the Code of Federal Regulations, and included in grant agreements and other appropriate documents, in addition to the individual notice described in paragraph 3.

13. Agencies should collect in a central location, and index, those written decisions made in administrative appeals. These decisions should be made available to the public except to the extent that their disclosure is prohibited by law. Whenever a grantee or vested applicant cites a previous written decision as a precedent for the agency to follow in its case, the agency should either do so, distinguish the two cases, or explain its reasons for not following the prior decision.

III. Complaints by Discretionary Grant Applicants

A. Informal Review Procedures

The Conference previously has called on agencies to develop criteria for judging discretionary grant applications and to adopt at least informal complaint mechanisms to ensure compliance with these criteria and other federal standards. (See Recommendations 71–9 and 74–2.) The Conference reiterates its belief that these procedures can benefit agency performance.

B. Public Notice

Each federal grantmaking agency should ensure that available informal review procedures and administrative appeal procedures are made known to grant applicants. Notice of such procedures should be published in the **Federal Register**, codified in the Code of Federal Regulations, and included in application materials and other appropriate documents. (See also Recommendations 71–4 and 71–9.)

IV. Implementation of Recommendation

Each federal grantmaking agency should, within one year of the adoption of this recommendation, report in writing to the Administrative Conference the steps the agency intends to take, consistent with the above guidelines, to improve its dispute resolution process.

8. Section 305.82–3 is added to Part 305 as follows:

§ 305.82–3 Federal Venue Provisions Applicable to Suits Against the Government (Recommendation No. 82–3).

(a) This recommendation responds to proposals to amend statutes that govern venue in actions against the United States, its agencies and its officials. It calls for two limited changes: (1) Amendment of the district court transfer provision, 28 U.S.C. 1404(a), to provide explicitly that intervenors may request a change of venue, and (2) addition of a provision requiring that, when an action against the Government is brought in the District Court for the District of Columbia that may have a particular impact on residents of one or more states, notice be given to the Attorney General of any such state. Otherwise, it urges rejection of proposals to make the extent of local impact determinative of proper venue.

(b) The present venue statute governing most district court actions against the United States, its officers, or agencies is 28 U.S.C. 1391(e). Section 1391(e) permits suit in any district in which (1) a defendant resides, (2) the cause of action arose, (3) real property involved in the action is situated, or (4) the plaintiff resides, if no real property is involved. Under 28 U.S.C. 1404(a) a district court may transfer any civil action to any other district where it might have been brought "[f]or the convenience of parties and witnesses, in the interest of justice * * *."

(c) The present venue requirements governing agency review proceedings in the courts of appeals are found in particular statutes, generally a section of the substantive statute under which the agency is acting. Most such statutes include the District of Columbia Circuit

as one of the available forums; some statutes designate that circuit as the exclusive forum.[2]

(d) Section 1391(e) applies to all sorts of actions, including actions for money damages. The concern of those making the current proposals is not with damage actions but with nonstatutory review proceedings, typically actions for declaratory judgments, injunctions or mandamus. More particularly their concern is with only some of those cases, often environmental cases, that involve projects, people or resources of particular states or regions.

(e) Those advocating modifications of the venue laws believe that too many of such "local" suits against the Government are heard in the courts of the District of Columbia and that the judges of those courts do not have the "feel" for local affairs that judges on the scene have. Proponents are mostly from the western states, and they emphasize how different are the arid, relatively undeveloped West and its problems from the East and its problems. They argue that the convenience of locally affected citizens and their perception that distant district judges are out of touch with local concerns should be important factors in determining venue. Therefore, they propose amending sections 1391 and 1404 to limit venue to the judicial district in which the residents would be most affected by the agency action or inaction that is the subject of the lawsuit. Similarly, they propose new statutory provisions governing court-of-appeals venue that would create new rights to obtain transfers to a circuit in which the impact of the suit is greater and would also eliminate all provisions for exclusive review in the District of Columbia Circuit.

(f) Across-the-board attempts to restrict the choice of forum presented by the current venue laws are unnecessary and unwise. The number of suits against the Government filed in the District of Columbia has not been disproportionate, and we believe that such suits have been transferred when appropriate. The current flexible venue statutes minimize threshold litigation, whereas the proposed modifications would involve costly preliminary determinations concerning the substantiality and location of impact. Many, probably most, of the cases with which the proposals are concerned are heard on agency records without the taking of testimony. Considerations of convenience to the parties (which in such cases really means counsel) and of the location of the agency record often favor venue in the District of Columbia. Changes of venue may be obtained under 28 U.S.C. 1404, which provides that transfers to an alternate forum may be obtained "for the convenience of parties and witnesses, in the interest of justice." Where the convenience of locally-based parties or witnesses is a significant consideration, or the interests of justice otherwise indicate that the case should be tried in the local jurisdiction, courts have appropriately permitted transfer. There is no suggestion that intervention is not allowed when requested. To ensure that affected persons are aware of suits filed in the District of Columbia, a simple notice requirement is all that is needed. Furthermore, to remove any doubt that intervenors may request a change of venue, explicit language to that effect can be added to 28 U.S.C. 1404.

(g) With respect to venue in the courts of appeals, the need for authoritative determinations on nationally applicable statutes or regulations may argue for exclusive review in the District of Columbia Circuit. (See Recommendation 76-4, "Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act.") However, Congress should review all such existing provisions to decide on a statute-by-statute basis whether such exclusivity is warranted.

(h) There is no question that some proponents of changes in the venue laws believe that the place of hearing is likely to affect the outcome and believe further that courts of "local" districts will be more sympathetic than the courts of the District of Columbia to the local interests for which they profess to speak. No doubt, some of the opponents of such changes perceive an advantage to their interests in their ability to sue in the District of Columbia.

The Conference is aware from its consideration of the race-to-the-courthouse recommendation, No. 80-5, that lawyers do act on perceptions of advantage based on venue even within a single United States court system and a single body of federal law. The Conference cannot deny the existence or the importance of the perception of advantage to a party from the choice of one court over another. We suggest, however, that, to the extent that the concern of proponents is actually with the terms and construction of certain federal statutes, the proper objective should be the forthright amendment of the statutes, not manipulation of the law of venue in order to achieve more favorable construction.

Traditionally, one has been able to sue the Government at its seat. Indeed, it took the mandamus and venue statute of 1962, which added section 1391(e) to the Code, to provide a solid basis for suing the Government elsewhere. Perceived differences in the predilections of particular courts, which are likely to be transient if they exist at all, are not a reason for departing from our tradition.

There may be particular statutory contexts in which local considerations are so likely to predominate in a certain category of suits against the Government, that such suits should be heard in local districts. Thus, while this recommendation opposes across-the-board restrictions on venue choices, the Conference does not oppose the reexamination of the allowable venue of proceedings to review agency actions under particular statutes.

RECOMMENDATIONS

(1) Congress should not amend the statutes governing venue in district court actions against the United States, its agencies or its officials, 28 U.S.C. 1391(e), 1404(a), or the statute governing direct review of agency orders in the courts of appeals, 28 U.S.C. 2112(a), to make the extent of local impact determinative of proper venue.

(2) Congress should add a new subsection (g) to 28 U.S.C. 1391 to provide that plaintiffs filing actions in the United States District Court for the District of Columbia against the United States, its agencies or its officials that may have a particular impact on the residents of other districts be required to notify the attorneys general of the states containing such districts.

(3) Congress should amend the district court transfer provision, 28 U.S.C. 1404(a), to provide explicitly that intervenors may request a transfer.

(4) Congress should review existing statutes providing for review of federal agency orders or regulations exclusively in the District of Columbia Circuit to ensure that, in each statute, considerations of the need for authoritative determinations on nationally applicable requirements outweigh the benefits of providing litigants with a choice of forums for challenging agency action. Pending such a review, however, Congress should not enact legislation overriding all exclusive venue provisions.

[2] ACUS has previously addressed the advisability of direct review in the courts of appeals in Recommendation 75-3 ("the choice of forum for judicial review of administrative action"). Court-of-appeals venue provisions in the Clean Air Act and Federal Water Pollution Control Act were addressed in Recommendation 76-4 (national standards should be reviewed exclusively in the D.C. Circuit; rules affecting single states or facilities should be reviewed in the local circuit). "Races" to the courts of appeals were addressed in Recommendation 80-5.

Separate Statement of Members Barnes, C. M. Butler III, D'Agostino, Fowler, Hakola, Horowitz, Knapp, Matheson, Miller, Morris, Oliver, Pressly, Rose, Sasseville, Schmults, Loren A. Smith, Tidwell, Twine, Williamson, and Liaison Representative Fergenson

We oppose that portion of the recommendation which rejects local impact as a factor in determining proper venue. In our view, consideration of local impact is germane to determining the proper venue of a suit, and a motion to amend the recommendation to provide for the consideration of local impact in the transfer of venue statute (28 U.S.C. 1404(a)) failed at the plenary session by only two votes. While we disagree with the Conference's recommendation on this issue, we join in the Conference's endorsement of related legislation to require that notice be given to the attorney general of any state containing districts that may be impacted by pending litigation against the United States and to expand 28 U.S.C. 1404(a) to permit an intervenor to request a transfer.

Our belief that local impact ought to be a significant factor in locating federal litigation is grounded in the basic principle that justice is more likely to be achieved when its search is conducted close to the people most affected by the outcome of the proceedings. This is a vast country with people proud of the freedom that unites us, and possessed of a determined commitment to the uniqueness of where they live. The people in the West or the South do not want different law than the rest of the country; they do seek judgement by men and women who adjudicate as neighbors, who bring the wisdom of place and experience to their deliberations. Returning venue to judicial districts whose citizens are affected by litigation does not guarantee certain results; it does guarantee that affected citizens will more likely perceive the judicial process as fair and responsive to their interests.

During the debate supporters of the recommendation claimed to be disturbed at the renascent provincialism they linked with the venue changing proposals. We do not believe that the merit of the local impact issue should be obscured by dismissing its proponents as provincial or observing, as does the preamble, that those who favor venue changing legislation are from the "arid, relatively undeveloped West." Indeed, one could as easily speculate that those who would do all in their power to keep the locus of federal judicial decision making in the District of Columbia are motivated by "provincial" concerns such as protecting the turf of the D.C. bar which might be threatened by enactment of venue changing proposals. Rather, the issue as we see it is whether the people's opportunity to participate in and observe the litigation which will affect their lives deserves to be balanced against other interests of the parties. We think it does.

While the recommendation's preamble does not explore the substantive concerns raised above, it does hypothesize some consequences of venue changing proposals such as the possibility of added pre-trial expenses necessitated by additional venue challenges and an observation that any changes will not improve the present situation since most suits are transferred where appropriate. We disagree with these conclusions. Cases where venue did not coincide with substantial local impacts and of ones where transfer requests were denied are referred to in Senator Laxalt's and Linden Kettlewell's article "A Return to Traditional Considerations for Determining Venue," at pp. 17–18, *Venue At The Crossroads*, February 1982, National Legal Center for the Public Interest. Even an opponent of the pending S. 2419 to amend the basic venue statute—Nicholas C. Yost, also a contributor to *Venue At The Crossroads*—concedes that transfers from Washington to affected localities have been denied in some specific instances (*Id.* at p. 45).

It is also not readily apparent how venue challenges will prolong litigation or significantly increase costs. Normal pre-trial procedures can resolve venue challenges expeditiously and appeals to venue decisions must be made immediately and through writs of mandamus. Since decisions on venue under section 1404(a) are to the court's sound discretion, it would be most unusual to find many such decisions reversed.

Since the pending venue changing legislation seeks to strike a balance between considerations of substantial local impact and other "interests of justice," the recommendation's admonishment that "local impact" considerations not be determinative unfortunately fails to confront the present proposals or state of Congressional debate. In dissenting from the recommendation's failure to approve local impact as an appropriate consideration in establishing proper venue, we hope that Congress will proceed to favorable consideration of S. 2419 and the principles it advances. We believe, with the sponsors of S. 2419, that justice is well-served when it is conducted closest to those citizens substantially affected by the court's decision.

Separate Statement of R. Tenney Johnson

I join members Barnes, *et al.*, in dissenting from this recommendation as it is presently drafted, but for reasons that to some extent differ. While I agree that Congress should not amend the law to make local impact *determinative* of proper venue, I do not agree that a plaintiff should be required to notify attorneys general of states in which an action may have a particular impact. Such a requirement, because of its vague parameters, would quickly lead to giving notice to all fifty attorneys general in every case.

More importantly, I believe that local impact should be a *possible* basis for transfer of venue, just as the convenience of the parties or witnesses currently is a basis for, but not determinative of, such a transfer. In other words, the decision should still be left to the court's discretion, but the law should provide that consideration of the local nature of the action's impacts is appropriate in reaching a decision.

I cannot, on the other hand, explicitly endorse S. 2419's venue provision, since it would *prohibit* venue in the district where the defendant or plaintiff resides unless the action would substantially affect the residents of that district, and thus would not permit the balancing of local interests with other interests.

9. Section 305.82–4 is added to Part 305 as follows:

§ 305.82–4 Procedures for Negotiating Proposed Regulations (Recommendation No. 82–4).

The complexity of government regulation has increased greatly compared to that which existed when the Administrative procedure Act was enacted, and this complexity has been accompanied by a formalization of the rulemaking process beyond the brief, expeditious notice and comment procedures envisioned by section 553 of the APA. Procedures in addition to notice and comment may, in some instances, provide important safeguards against arbitrary or capricious decisions by agencies and help ensure that agencies develop sound factual bases for the exercise of the discretion entrusted them by Congress, but the increased formalization of the rulemaking process has also had adverse consequences. The participants, including the agency, tend to develop adversarial relationships with each other causing them to take extreme positions, to withhold information from one another, and to attack the legitimacy of opposing positions. Because of the adversarial relationships, participants often do not focus on creative solutions to problems, ranking of the issues involved in a rulemaking, or the important details involved in a rule. Extensive factual records are often developed beyond what is necessary. Long periods of delay result and participation in rulemaking proceedings can become needlessly expensive. Moreover, many participants perceive their roles in the rulemaking proceeding more as positioning themselves for the subsequent judicial review than as contributing to a solution on the merits at the administrative level. Finally, many participants remain dissatisfied with the policy judgments made at the outcome of rulemaking proceedings.

Participants in rulemaking rarely meet as a group with each other and with the agency to communicate their respective views so that each can react directly to the concerns and positions of the others in an effort to resolve conflicts. Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute. For example, highly technical standards are negotiated that have extensive health, safety, and economic effects; lawsuits challenging rules are regularly settled by agreement on a negotiated rule; public law litigation involves sensitive negotiation over rule-like issues; and many environmental disputes and policies have been successfully negotiated. These experiences can be drawn upon in certain rulemaking contexts to provide procedures by which affected interests and the agency might participate directly in the development of the text of a proposed rule through negotiation and mediation.

The Federal Advisory Committee Act (FACA) has, however, dampened administrative enthusiasm for attempts to build on experience with successful negotiations. Without proposing a general revision of FACA, the Administrative Conference urges that Congress amend the Act to facilitate the use of the negotiating procedures contemplated in this recommendation.

The suggested procedures provide a mechanism by which the benefits of negotiation could be achieved while providing appropriate safeguards to ensure that affected interests have the opportunity to participate, that the resulting rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious. The premise of the recommendation is that provision of opportunities and incentives to resolve issues during rulemaking, through negotiations, will result in an improved process and better rules. Such rules would likely be more acceptable to affected interests because of their participation in the negotiations. The purpose of this recommendation is to establish a supplemental rulemaking procedure that can be used in appropriate circumstances to permit the direct participation of affected interests in the development of proposed rules. This procedure should be viewed as experimental, and should be reviewed after it has been used a reasonable number of times.

RECOMMENDATION

1. Agencies should consider using regulatory negotiation, as described in this recommendation, as a means of drafting for agency consideration the text of a proposed regulation. A proposal to establish a regulatory negotiating group could be made either by the agency (for example, in an advance notice of proposed rulemaking) or by the suggestion of any interested person.

2. Congress should facilitate the regulatory negotiation process by passing legislation explicitly authorizing agencies to conduct rulemaking proceedings in the manner described in this recommendation. This authority, to the extent that it enlarges existing agency rulemaking authority, should be viewed as an experiment in improving rulemaking procedures. Accordingly, the legislation should contain a sunset provision. The legislation should provide substantial flexibility for agencies to adapt negotiation techniques to the circumstances of individual proceedings, as contemplated in this recommendation, free of the restrictions of the Federal Advisory Committee Act and any ex parte limitations. Legislation should provide that information tendered to such groups, operating in the manner proposed, should not be considered an agency record under the Freedom of Information Act.

3. In legislation authorizing regulatory negotiation, Congress should authorize agencies to designate a "convenor" to organize the negotiations in a particular proceeding. The convenor should be an individual, government agency, or private organization, neutral with respect to the regulatory policy issues under consideration. If the agency chooses an individual who is an employee of the agency itself, that person should not be associated with either the rulemaking or enforcement staff. The convenor would be responsible for (i) advising the agency as to whether, in a given proceeding, regulatory negotiation is feasible and is likely to be conducive to the fairer and more efficient conduct of the agency's regulatory program, and (ii) determining, in consultation with the agency, who should participate in the negotiations.

4. An agency considering use of regulatory negotiation should select and consult with a convenor at the earliest practicable time about the feasibility of its use. The convenor should conduct a preliminary inquiry to determine whether a regulatory negotiating group should be empanelled to develop a proposed rule relating to the particular topic. The convenor should consider the risks that negotiation procedures would increase the likelihood of a consensus proposal that would limit output, raise prices, restrict entry, or otherwise establish or support unreasonable restraints on competition. Other factors bearing on this decision include the following:

(a) The issues to be raised in the proceeding should be mature and ripe for decision. Ideally, there should be some deadline for issuing the rule, so that a decision on a rule is inevitable within a relatively fixed time frame. The agency may also impose a deadline on the negotiations.

(b) The resolution of issues should not be such as to require participants in negotiations to compromise their fundamental tenets, since it is unlikely that agreement will be reached in such circumstances. Rather, issues involving such fundamental tenets should already have been determined, or not be crucial to the resolution of the issues involved in writing the proposed regulation.

(c) The interests significantly affected should be such that individuals can be selected who will adequately represent those interests. Since negotiations cannot generally be conducted with a large number of participants, there should be a limited number of interests that will be significantly affected by the rule and therefore represented in the negotiations. A rule of thumb might be that negotiations should ordinarily involve no more than 15 participants.

(d) There should be a number of diverse issues that the participants can rank according to their own priorities and on which they might reach agreement by attempting to optimize the return to all the participants.

(e) No single interest should be able to dominate the negotiations. The agency's representative in the negotiations will not be deemed to possess this power solely by virtue of the agency's ultimate power to promulgate the final rule.

(f) The participants in the negotiations should be willing to negotiate in good faith to draft a proposed rule.

(g) The agency should be willing to designate an appropriate staff member to participate as the agency's representative, but the representative should make clear to the other participants that he or she cannot bind the agency.

5. If the convenor determines that regulatory negotiation would be appropriate, it would recommend this procedure to the agency. If the agency and the convenor agree that regulatory negotiation is appropriate, the convenor should be responsible for determining preliminarily the interests that will likely be substantially affected by a proposed rule, the individuals that will represent those interests in negotiations, the scope of issues to be addressed, and a schedule for completing the work. It will be important for potential participants to agree among themselves as to these matters, and their agreement can be facilitated by either the convenor or a possible participant conducting a preliminary inquiry among identified interests. Reasonable efforts should be made to secure a balanced group in which no interest has more than a third of the members and each representative is technically qualified to address the issues presented, or has access to qualified individuals.

6. The subject matter of the proposed regulation may be within the jurisdiction of an existing committee of a non-governmental standards writing organization that has procedures to ensure the fair representation of the respective interests and a process for determining whether the decision actually reflects a consensus among them. If such a committee exists and appears to enjoy the support and confidence of the affected interests, the convenor should consider recommending that negotiations be conducted under that committee's auspices instead of establishing an entirely new framework for negotiations. In such a case, the existing

committee could be regarded as a regulatory negotiation group for purposes of this recommendation. (Alternatively, the product of the committee could be used as the basis of a proposed regulation pursuant to Administrative Conference Recommendation 78–4.[3])

7. To ensure that the appropriate interests have been identified and have had the opportunity to be represented in the negotiating group, the agency should publish in the **Federal Register** a notice that it is contemplating developing a rule by negotiation and indicate in the notice the issues involved and the participants and interests already identified. If an additional person or interest petitions for membership or representation in the negotiating group, the convenor, in consultation with the agency, should determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be represented by an individual already in the negotiating group, and (iii) whether, in any event, the petitioner should be added to the negotiating group, or whether interests can be consolidated and still provide adequate representation.

8. The agency should designate a senior official to represent it in the negotiations and should identify that official in the **Federal Register** notice.

9. It may be that, in particular proceedings, certain affected interests will require reimbursement for direct expenses to be able to participate at a level that will foster broadly-based, successful negotiations. Unlike intervenors, the negotiating group will be performing a function normally performed within the agency, and the agency should consider reimbursing the direct expenses of such participants. The agency should also provide financial or other support for the convenor and the negotiating group. Congress should clarify the authority of agencies to provide such financial resources.

10. The convenor and the agency might consider whether selection of a mediator is likely to facilitate the negotiation process. Where participants lack relevant negotiating experience, a mediator may be of significant help in making them comfortable with the process and in resolving impasses.

11. The goal of the negotiating group should be to arrive at a consensus on a proposed rule. Consensus in this context means that each interest represented in the negotiating group concurs in the result, unless all members of the group agree at the outset on another definition. Following consensus, the negotiating group should prepare a report to the agency containing its proposed rule and a concise general statement of its basis and purpose. The report should also describe the factual material on which the group relied in preparing its proposed regulation, for inclusion in the agency's record of the proceeding. The participants may, of course, be unable to reach a consensus on a proposed rule, and, in that event, they should identify in the report both the areas in which they are agreed and the areas in which consensus could not be achieved. This could serve to narrow the issues in dispute, identify information necessary to resolve issues, rank priorities, and identify potentially acceptable solutions.

12. The negotiating group should be authorized to close its meeting to the public only when necessary to protect confidential data or when, in the judgment of the participants, the likelihood of achieving consensus would be significantly enhanced.

13. The agency should publish the negotiated text of the proposed rule in its notice of proposed rulemaking. If the agency does not publish the negotiated text as a proposed rule, it should explain its reasons. The agency may wish to propose amendments or modifications to the negotiated proposed rule, but it should do so in such a manner that the public at large can identify the work of the agency and of the negotiating group.

14. The negotiating group should be afforded an opportunity to review any comments that are received in response to the notice of proposed rulemaking so that the participants can determine whether their recommendations should be modified. The final responsibility for issuing the rule would remain with the agency.

10. Section 305.82–5 is added to Part 305 as follows:

§ 305.82–5 Federal Regulations of Cancer-Causing Chemicals (Recommendation No. 82–5).

The following recommendations broadly address the procedures by which federal agencies identify, evaluate, and regulate substances that pose a potential risk of human cancer. For many years these regulatory activities have been among the most controversial engaged in by federal agencies. They implicate important health and economic values and attract the interest of groups throughout society. Some of the issues dealt with in these recommendations are not peculiar to the context of carcinogen regulation. The statutory procedures agencies follow in regulating human exposure to cancer hazards, for example, are applicable to many other environmental and health hazards. While these recommendations may thus have broader application or impact, they are based on an evaluation of agency performance in this context alone.

I. Priority Setting

Estimates of the number of chemicals that may pose a risk of human cancer describe a universe larger than government agencies can evaluate or regulate. Agency resources for scientific review and regulatory proceedings are shrinking, and the capacity of manufacturers and users of chemicals to implement costly controls is likewise limited. In these circumstances, attention should be concentrated on those chemicals that pose the greatest risks and can be controlled most economically. As agencies have increasingly recognized, accomplishing this objective requires establishment of priorities.

Priority setting should be part of any program directed at determining the health effects of chemicals, as well as of programs designed to establish exposure limits. Each regulatory agency should set its own priorities, but there is also value in interagency selection of candidates for regulation and, particularly, for further testing.

Although candidates for evaluation and regulation should be carefully selected, any ranking based on abstract criteria, however rational, will be vulnerable to new information about human exposure or health effects and to public concerns. Agencies should explain departures from established priorities, but should retain flexibility to respond to new problems.

Criteria for selecting candidates for regulation should include the extent of the hazard posed by a chemical—a function of its potency, the conditions of exposure, and the number of people exposed. The extent of the hazard can often be expressed in quantitative terms. Agencies should also consider the effectiveness and cost of alternative control measures as well as other effects of regulation. Estimates of the cost-effectiveness of regulating specific chemicals can be helpful in selecting priorities. Because of the complexity of these criteria and the continuing need to obtain additional information, selection of candidates for regulation will often be an iterative process.

Priority setting should be a public process which affords interested persons an opportunity to communicate their own views to the agency. Varied techniques exist short of rulemaking under the Administrative Procedure Act for providing such opportunities, including public meetings, use of expert advisory panels, and publication in the **Federal Register** of invitations to submit data and views. Under whatever system, preliminary rankings risk being misinterpreted as definitive judgments about the hazards of chemicals before manufacturers and users have had an opportunity to present evidence or arguments. Accordingly, agency announcements of priorities should make clear the tentative character of underlying scientific assessments and describe the

[3] Federal Agency Interaction with Private Standard-Setting Organizations in Health and Safety Regulation, 1978 ACUS Recommendations and Reports 13, 1 CFR 305.78–4.

opportunities for interested persons to supply contrary or confirmatory information.

Recommendation

1. To the extent compatible with other demands on their resources, agencies should establish and follow systems for ranking chemicals as candidates for scientific evaluation or regulation. Agencies should generally adhere to the priorities thus established, but must retain the flexibility to respond to new hazards or to public concerns about other chemicals.

2. Priority setting should be part of selecting chemicals (a) for further testing, (b) for intensive scientific and regulatory evaluation, and (c) for administrative action to limit or eliminate exposure.

3. To the extent allowed by law, priorities should be set by agencies with the objective of maximizing the net benefits to society of agency action. Thus, in setting priorities, the agency should consider the expected benefits and costs of various alternatives. Although the criteria for selecting chemicals for further testing may be different, the criteria for selecting chemicals for regulation should take account of the health hazards posed by chemicals, including the potency of the chemicals, levels of exposure, the number of people likely to be exposed, and the costs and cost-effectiveness of methods for controlling exposure, to the extent that these may be known.

4. Because agencies differ in their functions and their selection of candidates for evaluation and regulation must be coordinated with other agency programs, each agency should establish its own priorities. The several agencies responsible for regulating carcinogens should, however, periodically compare their rankings and, where feasible, coordinate their testing, evaluation, and regulatory efforts. Consultation with scientific, industrial, and public interest organizations should be encouraged.

5. Agency procedures for setting priorities should permit interested members of the public to submit information and views concerning specific candidates. Agencies should consider adopting priority-setting systems through rulemaking, but more informal methods are appropriate for ranking individual chemicals for evaluation and regulation. Any agency announcement that a product or chemical is a candidate for further evaluation or for regulation should explain both the bases of that assessment and its preliminary nature and should describe available procedures for confirming or negating its preliminary conclusions.

II. Interagency Coordination

Responsibility for regulating chemicals that pose a risk of human cancer is shared by several agencies, including most notably the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), and Consumer Product Safety Commission (CPSC). Only in recent years have these agencies attempted to coordinate their activities to assure consistency and enhance the benefits of regulation. While the agencies' criteria for identifying and evaluating potential carcinogens have in fact not been conflicting, their decisions have sometimes appeared difficult to reconcile, usually because of differences in legislation.

The creation of the Interagency Regulatory Liaison Group in 1977 rested on the premises that federal regulation of chemical carcinogens should proceed from common principles of scientific evaluation and should be coordinated administratively. While these premises remain valid, other mechanisms may be equally effective in assuring coordination. Opportunities for productive coordination exist in several areas: establishment of government-wide principles of scientific evaluation; agreement on test guidelines for toxicological experiments and other studies of health effects; ranking of chemicals for testing; and monitoring and enforcement of exposure controls.

The four agencies have on several recent occasions cooperated in the regulation of specific chemicals. They once assembled a central scientific working group to evaluate formaldehyde, a chemical of common interest, and they agreed on a common list of chemicals that were high priorities for coordinated regulation. Though diverse statutory procedures have sometimes discouraged joint administrative proceedings, opportunities at the preproposal stage for cooperation in evaluating health effects and performing economic analysis have not yet been fully exploited.

RECOMMENDATION

1. Interagency coordination in identifying, evaluating, and regulating potential human carcinogens should be encouraged. Effective coordination can reduce governmental costs, minimize inconsistency among the agencies, and better illuminate the economic costs of alternative control options.

2. Agencies should continue to cooperate in identifying chemicals for which further testing is needed to permit regulatory assessments. The National Toxicology Program should continue to elicit joint agency rankings of candidates for testing.

3. Regulatory agencies should collaborate with government scientific bodies, including the National Toxicology Program, National Institute of Environmental Health Sciences, and National Center for Toxicological Research, to obtain agreement on guidelines for the conduct and evaluation of toxicological tests. This effort need not result in public rulemaking to adopt test protocols, but scientists outside government should have an opportunity to contribute to the development of test guidelines. Cooperative guidelines should also be considered for short-term tests and epidemiological studies, but current guidelines should not discourage development of improved test methods.

4. To the extent permitted by statute, agencies responsible for regulating carcinogens should adhere to common criteria for evaluating and interpreting health effects data. Agencies should avoid inconsistency in their approaches to mixed scientific-policy issues, such as whether to assume a no-threshold model of carcinogenesis, whether to perform quantitative estimates of human risk, or whether to allow evidence that a chemical produces an increase in cancer in laboratory animals through mechanisms that do not suggest human risk.

5. Agencies responsible for regulating carcinogens should continue to explore joint evaluation of the potential health hazards of chemicals that are candiates for regulation by more than one agency, for instance, by use of a multi-agency advisory panel for any particular substance.

6. Agencies should explore other opportunities to collaborate before the initiation of formal administrative proceedings to regulate a chemical. These may include joint development of exposure estimates and joint preparation of economic analyses of alternative regulatory approaches.

7. Agencies should, after eliciting the views of interested persons, consider conducting joint administrative proceedings when they contemplate regulating the same chemical. Statutory diversity may, however, complicate or even preclude such proceedings.

III. Chemical Selection and Guidelines for Testing and Evaluation

The selection of chemicals for study, the design of protocols for laboratory experiments, and the establishment of

criteria for interpreting study results are important parts of the process for regulating substances that pose a risk of human cancer. These are essentially scientific functions which should not be dictated by narrow policy considerations. The important desiderate are scientific integrity and consistency.

At the same time, it remains true that much toxicological testing performed in the United States—by government laboratories and by or on behalf of private industry—is performed to aid regulatory decisionmaking. Numerous toxicological studies are performed to support marketing approval for food additives, pesticides, and pharmaceuticals. FDA and EPA have both conducted similar studies on substances within their regulatory jurisdiction. The agencies have also relied on studies commissioned by the National Cancer Institute. The NCI bioassay program has more recently fallen under the supervision of the National Toxicology Program, whose supervisory board includes representatives of the regulatory agencies. NTP currently accepts nominations of chemicals for testing from the agencies.

Under the auspices of the former Interagency Regulatory Liaison Group, the four agencies studied here (EPA, OSHA, FDA, and CPSC) actively sought agreement on joint protocols for toxicological testing and on criteria for evaluation of study results.

RECOMMENDATION

1. In conjunction with the National Toxicology Program and in consultation with scientific organizations outside government, regulatory agencies should continue efforts to develop consistent guidelines for toxicological testing. These test guidelines should reflect current scientific consensus but also awareness of the resource limitations that constrain both government and industry. The guidelines developed or espoused by the agencies should not be issued as formal regulations. Rulemaking would needlessly prolong the process of reaching agreement and formal regulations would limit the ability of agencies, producers, and testing laboratories to design protocols or adapt existing guidelines to new circumstances.

2. Agencies should adhere to similar test guidelines and similar criteria for interpreting test results. Any departure from common standards should be specifically and convincingly justified.

3. The National Toxicology Program should continue to encourage the participation of EPA, OSHA, FDA, and CPSC in its selection of chemicals for testing. It should be willing, on request, to assist agencies in their evaluation of study findings. The NTP special working group to evaluate the carcinogenicity of formaldehyde for all of the four regulatory agencies represents one promising experiment in the effort to assure consistency among the agencies.

IV. Advisory Panels

Assessment of the health risks posed by chemicals requires substantial information about their toxicity and about the conditions under which humans are exposed to them, as well as understanding of the techniques for obtaining such information. Techniques for toxicological evaluation, exposure estimation, and quantitative assessment of human risk increasingly demand state-of-the-art expertise. Evaluation of potential human carcinogens also requires impartiality in assessing the quality and interpreting the results of toxicological and epidemiological studies. In the scientific world, new research findings are customarily exposed to peer review before they become accepted as reliable. Increasingly, regulatory agencies have concluded that the data on which they rely, and the interpretations they give these data, should be subjected to peer review before becoming the bases for regulatory decisions.

Several proposals have recently been advanced to mandate and institutionalize this peer review function. Some of these proposals call for strict separation of risk assessment from the process of evaluating and selecting regulatory options. These proposals raise difficult issues respecting the design of procedures for administrative decisionmaking about chemical carcinogens. The function of assessing risk can be distinguished analytically from the choice of regulatory responses, but separating them in practice is more difficult. The close relationships among issues of toxicity, exposure, and the cost of controls makes the process of agency evaluation an interactive one. Accordingly, mechanisms for exposing agency judgments to peer review should be flexible enough to permit frequent interchange with agency policy makers.

One method that agencies have successfully used for institutionalizing peer review is consultation with expert advisory panels. These panels have taken several forms, ranging from informal working groups of agency scientists assigned to review a single chemical to standing committees of independent experts who advise on numerous candidates for regulation. Advisory panels can contribute objectivity as well as expertise to agency decisions. Their advice has sometimes prevented erroneous regulatory actions; more frequently, their role has been to illuminate complex issues and enhance the quality, and thus the credibility, of agency scientific analysis.

Advisory panels comprised in whole or in part of non-federal employees are governed by the Federal Advisory Committee Act (FACA), unless exempted by specific legislation. The FACA requires individual chartering and biennial reapproval and mandates practices that are designed to assure the balance, openness, and integrity of advisory committees. Most of these requirements are salutary, and the following recommendations endorse their observance by panels even where not formally subject to the FACA. Certain of the Act's provisions, however, have discouraged agencies from seeking outside peer review. The recommendations advanced here are intended to encourage agency resort to expert advisory panels without necessarily endorsing every requirement of the FACA. None of these recommendations should be construed as superseding either that Act, where applicable, or federal conflict of interest laws.

RECOMMENDATION

1. Peer review of experimental findings and scientific judgments is an important means of validating the technical bases of regulatory decisions concerning carcinogens. To the extent compatible with existing law, agencies should structure their decisional processes to incorporate mechanisms for scientific peer review.

2. Expert advisory panels represent one valuable means for obtaining scientific peer review of agency decisions. Advisory panels can provide information that will aid agencies in setting priorities, in evaluating scientific data prior to initiation of administrative proceedings, and in evaluating evidence submitted by interested persons during public proceedings.

3. The design, composition, and operation of an advisory panel should fit the function it is to perform; no uniform approach is optimal. A standing advisory panel, with responsibility for reviewing the scientific bases of major actions by a particular program, can contribute consistency in addition to expertise, and it provides a ready forum for agency consultation. To assure that the panel has access to relevant expertise, sub-units can be appointed to

evaluate specific chemicals or issues. An agency that lacks a standing advisory panel, however, should not forgo opportunities to create ad hoc panels to review the scientific bases of contemplated regulatory actions.

4. The role of an expert advisory panel may embrace evaluating data concerning the health effects of chemicals, interpreting those data and characterizing the chemicals' effects, and estimating the likely frequency of those effects under different exposure conditions. When an agency rejects an advisory panel's scientific judgment, it should explain the bases for that rejection. When an agency selects a regulatory approach whose bases appear inconsistent with a panel's advice, it should explain the legal, social, or other reasons that dictate or justify that choice.

5. Members of an expert advisory panel should be selected primarily for their expertise in relevant scientific fields. Qualified scientists, even if employed by the agency they are to advise, by other government agencies, or by commercial organizations, may appropriately be selected to serve on advisory panels. In the selection of panel members, attention should be given to assuring balance in scientific orientation and viewpoint. The organizational affiliations of all panel members should be a matter of public record. The financial holdings and relationships of potential panel members should be carefully screened by the appointing officials and periodically reviewed thereafter to prevent conflicts of interest. If a panel includes members who are not disinterested with respect to a particular substance, those members should not participate in the panel's discussions of that substance.

6. Advisory panels should be accessible for consultation by the appointing agency at frequent intervals and on short notice. Consultation should usually occur before any announcement of a plan to regulate a chemical. Even when the Federal Advisory Committee Act does not apply, many of its requirements represent appropriate guides for the operation of advisory panels. Referrals of issues to advisory panels and meetings of agency officials with panel members should be matters of public record. Advance public notice of panel meetings should be provided where practicable. Panels should meet in open session except when reviewing data that are entitled to confidential treatment or, unless restricted by statute, when the panel members vote to close their deliberations. All panel conclusions and recommendations should be reduced to writing and become a part of the material to be considered in any ensuing administrative proceeding.

7. Advisory panels established to evaluate scientific data for, and provide advice to, more than one agency may often be useful. Such panels can be particularly valuable in recommending chemicals for further study or testing. Where a chemical is of interest to more than one regulatory agency, a single advisory panel may be an efficient way of obtaining an independent assessment of its potential health effects. Interagency panels should be subject to the same restrictions as to composition, operation, and scope of responsibility as panels appointed to serve a single agency.

V. Generic Rulemaking

Agencies responsible for regulating potential carcinogens have attempted to develop and publish criteria for evaluating scientific data that underlie their decisions. These efforts have included informal statements of policy, proposed interpretative regulations, binding substantive standards, and interagency policy statements. The motives underlying these efforts to establish a framework for evaluating evidence concerning individual chemicals have been as diverse as the forms they have taken. One objective has been to obtain agreement among the agencies on the scientific criteria and policies that inform regulation of carcinogens. Another objective has been to improve understanding, among the public and within agency staffs, of the principles that guide agency decisions. Some agencies have also attempted to frame these principles as rules of decision in order to forestall repetitive disputes in proceedings to regulate individual chemicals.

The desirability of assuring agency adherence to common principles of scientific interpretation seems clear. Equally important is conformity of these principles with the best current understanding of the mechanisms of carcinogenesis, of toxicological and epidemiological research, and of quantitative risk assessment. Attempts to treat decisional guides as though they were binding substantive rules may conflict with the need to remain sensitive to developments in rapidly changing fields.

The efforts of individual agencies to establish criteria for identifying and evaluating potential human carcinogens have been criticized on several counts. In addition to disputing the content of agency judgments, industry critics have questioned the appropriateness of analytic frameworks that discourage individualized assessment of the capacity of chemicals to cause cancer. The duration of agency rulemaking proceedings suggests difficulty in obtaining scientific agreement in this area, but the controversy more often betrays disagreement over agency policy judgments rather than over their distillation of scientific consensus.

RECOMMENDATION

1. In appropriate cases generic rules legitimately may be the basis for summary administrative resolution of recurrent issues, provided they do not foreclose reexamination of scientific conclusions respecting carcinogenicity of particular substances. Agencies should proceed cautiously in using this technique because the complexity and uncertainty of the issues involved and continuing advances in scientific understanding of the mechanisms of human cancer impede development of binding general principles.

2. Agencies should be encouraged to develop systematic statements of the principles that they will apply in identifying, ranking, and evaluating chemicals that may pose a risk of human cancer. The systematizing process should ordinarily involve opportunity for submission of data and views by interested persons outside the agency. Whenever an agency expects to limit argument over principles that will guide decisions in proceedings to regulate individual chemicals, compliance with statutory requirements for rulemaking is essential before the principles are formulated.

3. Agency statements may appropriately address the design and interpretation of scientific studies, the measurement or estimation of human exposure, the performance of quantitative risk assessment, and the selection of regulatory responses. These statements should attempt to distinguish between elements that are intended to summarize current scientific consensus and others that represent policy judgments reached in the absence of consensus. Policy judgments are an inevitable component of regulatory decisions and, where similar issues arise recurrently, are appropriately resolved on a generic basis. But where scientific developments in the near term are likely to require modification, or where individual studies or chemicals are often likely to deviate from the "norm," they should not be framed as binding rules.

4. Many issues involved in identifying, evaluating and regulating potential carcinogens are common to all agencies

and should be resolved consistently. These issues range from the criteria for interpreting scientific studies to the selection of mathematical models for estimating human risk. Though scientific uncertainty surrounding many of these issues requires considerations of value and policy, disparate agency responses should be avoided or convincingly justified.

VI. Quantitative Assessment of Risk

Various pressures and incentives have encouraged regulatory agencies to explore methods for quantifying the risk of potential carcinogens. At the same time the use of quantitative risk assessment in making regulatory decisions has provoked fierce controversy. Industrial interests have generally urged agencies to regard quantification as an essential step in evaluating measures for controlling carcinogens. Consumer groups and labor unions, on the other hand, have cautioned against excessive reliance on techniques whose reliability remains uncertain. The agencies themselves have for some time had difficulty reaching consensus on the issue.

Criticism of quantitative risk assessment stems in part from doubts about its reliability. Reliance on animal models as qualitative predictors of human risk often may be unavoidable, and the further extraplolation from effects observed at high doses to the unmeasurable effects predicted at low doses compounds uncertainty. Critics also point to the wide range of risks at low doses predicted by different extrapolation models. A further criticism is that quantitative risk assessment can too easily be exploited to compute the dollar value implicitly assigned by regulators to human life.

Despite these criticisms, quantitative risk estimation has an appeal for both analysts and decisionmakers. Without some neans of describing the magnitude of the health effects associated with exposure to a carcinogen an agency must find some other basis for deciding what controls to require. Legislation sometimes provides an answer. The Delaney Clause, for example, makes quantification of the risk of a carcinogenic food additive superfluous. Under any statute that permits or instructs the agency to weigh the costs against the health consequences of alternatives means of controlling exposure, however, a method to quantify risks has proved essential.

Quantitative risk assessment can help illuminate many of the choices that agencies confront in regulating carcinogens. Even with its uncertainties, the technique facilitates comparison of the risks posed by different substances, which can aid in establishing priorities for regulation. Similarly, quantitative risk assessment can illuminate the choice among diverse regulatory options. A common unit of measurement for evaluating the health benefits of different options can materially advance analysis of a multidimensional decision even if the measurements are unverifiable and the benefits are not converted into dollars.

RECOMMENDATION

1. Quantitative risk estimates can be valuable in setting priorities for regulation of carcinogens, comparing the human health consequences of alternative control measures, and in analyzing the costs and benefits of regulatory options. To the extent regulatory statutes allow and available data permit, agencies should attempt to estimate and describe the magnitude of the risk posed by prevailing levels of exposure to substances considered for regulation. Within the same constraints, agencies should also attempt to describe the size of the health benefits provided by measures required to reduce or eliminate human exposure.

2. Given the limitations of techniques for quantitative risk assessment and different statutory criteria for limiting or eliminating exposure, risk estimates ordinarily will be only one consideration. The weight accorded such estimates should reflect:

(a) The statutory criteria governing agency decisions;

(b) The adequacy of available data on carcinogenic potency and on the type, levels, and duration of human exposure; and

(c) The acceptance of the methods used to estimate future health effects.

3. Any description of the magnitude of the risk associated with prevailing exposures or of the estimated health benefits of exposure controls should explicitly identify:

(a) The toxicological, epidemiological, and exposure data on which it rests;

(b) The assumptions underlying any extrapolations from animals to man or from high to low exposure levels;

(c) Other assumptions about the behavior of the substance or about the characteristics of human exposure to it; and

(d) The range of uncertainty associated with the estimates.

4. Quantitative estimates of risk associated with exposure to a substance—particularly when expressed in terms of lives likely to be lost or cases of cancer likely to occur—have a power to captivate public and press attention. Such estimates should be accompanied by statements stressing their imprecision and uncertainty. When the available health effects data are seriously deficient or little is known about human exposures to a substance, the risk of misinterpretation may justify an agency decision not to attempt quantitative estimates of risk or health benefits.

VII. Public Participation

Several values are served by public participation in the regulatory process. Perhaps preeminent is the value of fairness to those who may be directly affected by government action. The "right to be heard" before government acts adversely to important private interests is well established in American administrative law. This is reflected in the Administrative Procedure Act and by most regulatory statutes.

A second purpose served by broad public participation in agency decisionmaking is avoidance of mistaken even though well intentioned judgments that rest on incomplete information. In the context of carcinogen regulation this value enjoys a high rank. Decisions concerning human exposure to potential carcinogens should rest on sound scientific and economic judgments. Estimates of risk and cost require information that agencies often lack, as well as analytical skills that are found in industry and many public interest organizations. Accordingly, agency procedures should facilitate participation by those in the private sector with relevant scientific and economic expertise.

A third important value served by public participation is balance. Agency decisions concerning environmental health hazards require government to take large chances with both human life and private business. Data are invariably inadequate and estimates of future consequences are problematical; these uncertainties simply complicate an already difficult task. Determining the appropriate level of human exposure to a substance reasonably found to cause cancer is fundamentally a normative exercise in which there are no experts. Because decisions are left to regulators with sometimes scant Congressional guidance, agency procedures should facilitate broad participation and vigorous debate to assure agency understanding of diverse viewpoints.

Finally, the opportunity to influence agency thinking, coupled with an awareness that agency procedures permit broad participation, contributes to the acceptability of agency decisions.

Public health or scientific interests may not have participated in the

regulatory process on equal footing with commercial interests. The extent to which this disparity, if it exists, is a function of lack of resources and whether it should be addressed through public funding of citizen participation are questions that transcend carcinogen regulation. The arguments for and against funding should be considered in the broader context.

RECOMMENDATION

1. In setting exposure limits for carcinogens, agencies ordinarily should follow procedures that assure opportunities for all affected interests, commercial and non-commercial alike, to submit information and views before final decisions are reached. Procedures may appropriately vary with the requirements of agency organic statutes, with the characteristics of the activity or products whose regulation is contemplated, and with the need for prompt action to limit exposure.

2. Agencies should encourage and facilitate the participation of independent experts in toxicology, epidemiology, risk and exposure estimation, and other relevant technical disciplines. A useful way of eliciting participation in the regulatory process by independent scientists is through the use of standing or ad hoc advisory panels.

3. Congress should refrain from imposing procedural requirements, such as section 701(e) of the Federal Food, Drug, and Cosmetic Act, which are so burdensome that agencies search for regulatory approaches that have the effect of precluding effective participation in their decisionmaking processes by affected interests.[4]

PART 310—MISCELLANEOUS STATEMENTS

* * * * *

11. The table of contents of Part 310 of 1 CFR is amended to add the following new section:

Sec.
310.7 Views of the Administrative Conference on Proposals Pending in Congress to Amend the Informal Rulemaking Provisions of the Administrative Procedure Act.

12. Section 310.7 is added to Part 310 to read as follows:

[4] See also Administrative Conference Recommendation 71–7 (Rulemaking on a Record by the Food and Drug Administration), 2 ACUS Recommendations and Reports 42 (1973); and Recommendation 72–5 (Procedures for the Adoption of Rules of General Applicability), 2 ACUS Recommendations and Reports 66 (1973), 1 CFR 305.72–5.

§ 310.7 Views of the Administrative Conference on proposals pending in Congress to amend the informal rulemaking provisions of the Administrative Procedure Act.

The Administrative Conference has reviewed the major regulatory reform proposals pending in Congress: H.R. 746, the Regulatory Procedure Act of 1982, reported by the House Judiciary Committee on February 25, 1982, and S. 1080, the Regulatory Reform Act, passed by the Senate on March 24, 1982. These bills would substantially revise the provisions of the APA governing informal rulemaking, 5 U.S.C. 553. Our views on the following proposed revisions of section 553 are set forth below.

1. *Notice of proposed rulemaking.* The Conference believes the detailed notice requirements of amended section 553(b)(1)(F), in section 3 of the Senate bill, are unduly burdensome as general requirements in rulemaking.

The Conference recommends enactment of the provision in section 3 of the Senate bill that would amend section 553 to require publication of a new notice of proposed rulemaking and an opportunity for comment thereon, whenever the provisions of the rule the agency plans to adopt are so different from the provisions of the original proposal that the initial notice no longer fairly apprises the public of the issues ultimately to be resolved in the rulemaking.

2. *Opportunity to present comments.* The Conference has no objection to enactment of the provisions in the House and Senate bills that would establish a minimum comment period in rulemaking under section 553, provided that the "good cause" exception in section 553(b) is retained.

The Conference recommends that an opportunity for oral presentation of data and views should not be a mandatory requirement in rulemaking under section 553 even if the requirement is limited, as in the Senate and House bills, to "major" rulemakings. The Conference has recommended, in Recommendation 76–3, that in appropriate circumstances agencies should utilize oral presentations in informal rulemaking, but agencies should have discretion to decide when and to whom the presentations are made.

3. *Cross-examination.* The Conference recommends that Congress not enact the provisions in the Senate and House bills that would require cross-examination to be permitted in rulemaking under section 553, even though the bills would only require use of cross-examination as a "last resort" procedure. The Conference has previously recommended, in Recommendation 76–3, that agencies should give interested persons an opportunity to indicate issues of specific fact for which they contend cross-examination is appropriate, and that if cross-examination is permitted, it should be strictly limited as to subject and duration.

4. *The requirement of a rulemaking file.* The Conference recommends that Congress amend the APA to provide that, in rulemaking under section 553, an agency shall maintain a public rulemaking file beginning no later than the date on which the notice of proposed rulemaking is published. At a minimum, the agency should be required to place in the public rulemaking file, promptly upon receipt or production, the following materials: (1) All notices pertaining to the rulemaking, (2) copies, or where impractical a reference to or index of, all factual material upon which the agency substantially relied in formulating the proposed or final rule, unless the material is by law exempt from disclosure, (3) all written comments submitted by interested persons during the rulemaking, and (4) any other material required by statute or agency rule to be made public in connection with the rulemaking.

5. *Opportunity to comment on material in the rulemaking file.* The Senate bill provides that an agency may not substantially rely upon factual material that was not placed in the rulemaking file in time to afford the public an adequate opportunity to comment on the material. The Conference opposes enactment of a statutory provision to this effect because the practical effect of such an inflexible requirement would be to encourage nonsubstantive challenges to final agency rules. The Conference, however, does reaffirm the principle, stated in Recommendation 76–3, that agencies provide an appropriately limited additional opportunity to comment when material placed in the rulemaking file, including comments filed in the proceeding, presents new and important issues or serious conflicts of data.

6. *Statement of basis and purpose.* The Conference recommends enactment of the provisions in the House and Senate bills that would amend section 553 to add a requirement that the statement of basis and purpose accompanying a final agency rule include a response to all significant issues raised in the public comments received by the agency during the comment period established for the rulemaking.

Dated: July 9, 1982.

Richard K. Berg,

General Counsel.

[FR Doc. 82-19173 Filed 7-14-82; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 699; Valencia Orange Reg. 698, Amdt. 1]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 16–22, 1982, and increases the quantity of such

oranges that may be so shipped during the period July 9–15, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective July 16, 1982, and the amendment is effective for the period July 9–15, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on July 13, 1982, at Los Angeles, California, to consider the current and propective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

List of subjects in 7 CFR Part 908

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, oranges (Valencia).

1. § 908.999 is added as follows:

§ 908.999 Valencia Orange Regulation 699.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 16, 1982, through July 22, 1982, are established as follows:

(a) District 1: 306,000 cartons;
(b) District 2: 344,000 cartons;
(c) District 3: Unlimited cartons.

2. Section 908.998 Valencia Orange Regulation 698 (47 FR 29817), is hereby amended to read:

§ 908.998 Valencia Orange Regulation 698.

* * * * *

(a) District 1: 329,000 cartons;
(b) District 2: 371,000 cartons;
(c) District 3: Unlimited cartons.

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

Dated: July 14, 1982.

D. S. Kuryloski,

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

[FR Doc. 82–19447 Filed 7–14–82; 11:35 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

10 CFR Part 317

[Docket No. ERA–R–81–11]

Priority Delivery of Coal Under Department of Defense Contracts; Removal of 10 CFR Part 317

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby gives notice of the removal of 10 CFR Part 317 (Part 317), which established procedures implementing the coal supply allocation authority of section 101 of the Defense Production Act of 1950, 50 U.S.C. App. 2071 *et seq.* (DPA).

The removal is part of DOE's regulatory reform program and is based upon DOE's determination that (1) Part 317 would be of strictly limited usefulness in the event of an emergency requiring allocation of coal among users in the interest of national defense; and (2) that allocation of coal under Part 317 would be less effective than emergency ad hoc operations conducted directly under the DPA statutory provisions.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT:

David A. Eaton, Office of Energy Contingency Planning, Office of Energy Emergencies—Environmental Protection, Safety, and Emergency Preparedness, Room GH–060, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2917.

Marya Rowan, Office of the General Counsel, Department of Energy, Room 6B–178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2967.

The public file containing copies of all documents and supporting materials on this proceeding is available for inspection at the Office of Energy Contingency Planning, address given above.

SUPPLEMENTARY INFORMATION: Under the authority of section 101 of the DPA and Executive Order 11790 delegating the DPA presidential coal allocation authority to the Secretary of Energy, 39 FR 23185 (June 27, 1974), DOE can (1) issue priority ratings requiring DOD coal contractors and other defense-related coal contractors to meet their national defense contractual obligations before supplying their other customers; and, if necessary, mandate coal sales for defense purposes by firms who refuse to contract in accordance with a priority rating; (2) order the priority delivery of coal to defense contractors where such delivery is necessary to assure the performance of their contracts which have previously been given priority ratings by the Department of Commerce; and (3) allocate coal throughout the entire civilian market when certain conditions are met.

Part 317, entitled, "Priority Delivery of Coal Under Department of Defense Contracts", was designed to implement a portion of DOE's authority under section 101 of the DPA. However, the

Part established only the procedures for the priority supply of DOD coal requirements and did not implement the other section 101 authorities, including the authority to meet the coal supply requirements of non-DOD defense agencies and defense contractors. A situation requiring DOE's exercise of the other authorities would thus require recourse to ad hoc operations for coal allocation to parties other than DOD. Moreover, the DOD priority delivery procedures in Part 317 did not administratively enhance DOE's ability to act directly under the statute and Executive Order, without resort to the regulations. For these reasons, DOE, by notice of Janaury 11, 1982, proposed the removal of Part 317 and provided a thirty-day public comment period during which interested parties were invited to submit written comments on issues raised by the proposed action. (47 FR 1137). No comments were received. Accordingly, on the basis of the information contained in the record and having not been apprised of information that would persuade it to the contrary, DOE removes 10 CFR Part 317, effective August 16, 1982.

Procedural Matters

A. *NEPA Compliance.* DOE has determined that the removal of Part 317 does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of § 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). Since DOE can act to promote the national defense, exercising its same authority under section 101 of the DPA regardless of the presence or absence of Part 317, the removal of Part 317 will have no impact upon DOE's exercise of the DPA authority, when such action is required. Therefore, an Environmental Impact Statement assessing the impact of alternatives to this proposal is not required.

B. *Executive Order No. 12291.* Section 3(b) of Executive Order No. 12291 directs each agency to initially determine whether an action it proposes constitutes a major rule.

DOE determined that the removal of Part 317 does not constitute a major rule as it does not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs for prices for consumers; individual industries; Federal, state, or local government agencies; or geographic regions; or (3) 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 (47 FR 1137, January 11, 1982).

In reaching this determination, DOE also considered that the procedures in Part 317 were not necessary to its authority or ability to take emergency coal allocation actions under § 101 of the DPA and Executive Order 11790, and that, accordingly, the removal of the Part would have no effect, either positive or negative, on any sector of the economy.

C. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that an agency shall prepare a regulatory flexibility analysis with regard to a rule that will have a significant economic impact on a substantial number of small entities.

For the reasons discussed in paragraph B, above, DOE certified that the rule removing Part 317 would not have a significant economic impact on a substantial number of small entities (47 FR at 1138, January 11, 1982).

D. *Paperwork Reduction Act.* No data collection or reports are required as a result of this rulemaking; therefore, clearance of DOE's action by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* is not required.

(Defense Production Act of 1950, 50 U.S.C. App. 2071 et seq.; Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 et seq.; E.O. 11790, 29 FR 23185 (June 27, 1974); E.O. 12038, 43 FR 4957 (February 7, 1978))

Issued in Washington, D.C., June 30, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

List of Subjects in 10 CFR Part 317

Administrative practice and procedure; coal allocation; Government contracts; Penalties; Reporting requirements; Strategic and critical material.

For the reasons set out in the preamble, Chapter II, Title 10 of the Code of Federal Regulations is amended by removing Part 317.

PART 317—PRIORITY DELIVERY OF COAL UNDER DEPARTMENT OF DEFENSE CONTRACTS [REMOVED]

[FR Doc. 82-19180 Filed 7-14-82; 8:45 am]
BILLING CODE 6450-01-M

10 CFR Part 710

Defense Programs; Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending 10 CFR Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material". DOE is amending Part 710 to simplify the criteria and to consolidate the two categories of the existing criteria into a single set of criteria.

The previous criteria set forth specific types of derogatory information that create a question as to an individual's eligibility for DOE access authorization. These criteria were divided into two categories. Category "A" derogatory information was such that if there were sufficient grounds to establish a reasonable belief as to the truth of one or more of the items in this category, these grounds shall be the basis for a recommendation by the DOE hearing officer for denying or revoking an individual's access authorization. Category "B" derogatory information was such that if there were sufficient grounds to establish a reasonable belief as to the truth of one or more of the items, the extent of activities falling within the category, the period in which such activities occurred, the length of time which has since elapsed, and the individual's attitudes and convictions shall be considered in determining whether the recommendation for denying or revoking an individual's access authorization will be adverse or favorable. Under the final rule, DOE is establishing a single set of criteria by which the DOE hearing officer will base his/her recommendation for an adverse or favorable determination of an individual's eligibility for DOE access authorization. The DOE hearing officer, under the final rule, will consider all the factors previously considered under Category "B".

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dowd, Director, Division of Security, Office of Safeguards and Security, U.S. Department of Energy, Washington, DC 20545 (301/353-4642).

SUPPLEMENTARY INFORMATION:

A. Background

The DOE published its proposed rule in the **Federal Register** on January 20, 1982, 47 FR 2874. Public comments were invited on or before February 19, 1982. No public comments have been received.

B. Procedural Requirements

1. *Section 501 of the DOE Organization Act.* Under section 501(c) of the Department of Energy Organization Act, the DOE is not bound by the prior hearing requirements of subsections (b), (c) and (d) with respect to a regulation upon our determination that no substantial issue of fact or law exists and that the regulation is unlikely to have substantial impact on the Nation's economy or large numbers of individuals and businesses. Where it is determined that no substantial issue or impact exists, the regulation may be promulgated in accordance with section 553 of Title 5 U.S.C. The revision of the criteria at 10 CFR Part 710 raises no substantial issues of fact or law, and does not have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

2. *Executive Order No. 12291.* It had been determined that this amendment is not a major rule subject to the requirements of the Executive Order No. 12291 (46 FR 13193, February 19, 1981) because it is not likely to result in an annual effect on the economy of more than $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or cause 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.

3. *Regulatory Flexibility Act.* Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601–612, DOE finds that sections 603 and 604 of the Act do not apply to this amendment because promulgation of the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear materials.

Issued in Washington, DC on June 29, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

In consideration of the foregoing, Part 710 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL

1. Section 710.10 is amended by revising paragraph (d) to read as follows:

§ 710.10 Application of the criteria.

* * * * *

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for access authorization, the DOE Hearing Officer shall consider the extent of activities, the period in which such activities occurred, the length of time which has since elapsed, and the attitudes and convictions of the individual in determining whether the recommendation will be adverse or favorable.

2. Section 710.11 is revised to read as follows:

§ 710.11 Criteria.

Derogatory information included, but not limited to, those cases in which the individual has:

(a) Committed, prepared or attempted to commit, or aided, abetted or conspired with another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(b) Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, espionage agent, or representative of a foreign nation whose interests are inimical to the interests of the United States, or with any person advocating the use of force or violence to overthrow the Government of the United States by unconstitutional means.

(c) Knowingly held membership in or had a knowing affiliation with, or has taken action which evidences a sympathetic association with the intent of furthering the aims of, or adherence to, and active participation in any foreign or domestic organization, association, movement, group, or combination of persons which advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or Laws of the United States or any state or subdivision thereof by unlawful means.

(d) Publicly or privately advocates, or participates in the activities of a group or organization, which has as its goal, revolution by force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means with the knowledge that it will further those goals.

(e) Parent(s), brother(s), sister(s), spouse, or offspring residing in a nation whose interests may be inimical to the interests of the United States, or in satellites or occupied areas thereof (to be evaluated in the light of the risk that pressure applied through such relatives could force the individual to act contrary to national security).

(f) Has deliberately misrepresented, falsified or omitted significant information from a Personnel Security Questionnaire, a personnel qualifications statement, or a personnel security interview.

(g) Has failed to protect classified information, or safeguard special nuclear material; or has willfully violated or disregarded security or safeguards regulations to a degree which would endanger the common defense and security or has intentionally disclosed classified information to a person unauthorized to receive such information.

(h) Has an illness or mental condition of a nature which in the opinion of competent medical authority causes, or may cause, significant defect in the judgment or reliability of the individual, or has refused to be examined by a psychiatrist.

(i) Has refused to testify before a Congressional Committee, Federal or state court, or Federal administrative body, regarding charges relevant to eligibility for DOE access authorization.

(j) Is a user of alcohol habitually to excess, or has been such without adequate evidence of rehabilitation or reformation.

(k) Has used, trafficked in, sold, transferred or possessed a drug or other substance listed in the schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation or reformation.

(l) Has engaged in any unusual conduct or is subject to any circumstances which tend to show that

the individual is not honest, reliable, or trustworthy, and there is no adequate evidence of rehabilitation or reformation; or which furnishes reason to believe that the individual may be subject to coercion, influence, or pressure which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include but are not limited to sexual activity, demonstrated financial irresponsibility or notoriously disgraceful conduct.

[FR Doc. 82-19153 Filed 7-14-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks [1] is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List and will serve to give notice to the public about the changed status of certain stocks. For the first time a two-week delay before the List becomes effective will be instituted. This action was requested by the public in connection with a recent proposal to change the criteria for inclusion on the List.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of OTC Margin Stocks. A copy of the complete List incorporating these additions and deletions is also on file at the office of the Federal Register. This complete List supersedes the last complete List published on October 5, 1981 and includes amendments to that List, effective March 1, 1982 (see 46 FR 49577, October 7, 1981 and 47 FR 8988, March 3, 1982, respectively). The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X. Copies of the complete up-to-date List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. section 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR 207.5 (d) and (e), 220.8 (h) and (i), and 221.4 (d) and (e). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. section 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a recent request by the public and allowed a two-week delay before the List is effective.

List of Subjects in 12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

List of Subjects in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, Reporting requirements, Securities.

List of Subjects in 12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. secs. 78g and 78w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there are set forth below additions to and deletions from the Board's List:

Additions

Advanced Semiconductor Materials International N.V., Dfls $.03 par share
Alaska Pacific Bancorporation, No par common
American International Group Inc., $5.00 par cumulative convertible preferred
American Medical Affiliates, Inc., $.10 par common
American Trustee Inc., $1.00 par common
AMFESCO Industries Inc., $.10 par common
Application Engineering Corporation, $1.00 par common
Ask Computer Systems, Inc., No par common
Associated Communications Corporation, $2.50 par common
Bedford Computer Corporation, No par common
Big B., Inc., $.10 par common
Bluewater Oil & Gas Limited, No par capital
Bolt Technology Corporation, No par common
Branch Corporation, $2.50 par common
Canon Inc., American Depository Receipts for common stock (par value 50 yen)
Carolin Mines Ltd., No par common
Central Louisiana Electric Company, Inc., $4.00 par common
Cipher Data Products, Inc., No par common
David Jamison Carlyle Corporation, The, $.01 par common
David Minerals Ltd., No par common
Drew National Corporation, Class A, $5.00 par convertible preferred
Dunlap and Associates, Inc., $1.00 par common
Elron Electronics Industries Ltd., Preferred shares, Is 3 par value
Elscint Limited, Ordinary shares, Is .05 par value
Empire Airlines, Inc., $.40 par common
First Savings Association of Wisconsin, $1.00 par common
Fonar Corporation, $.001 par common
Gamma Biologicals, Inc., $.10 par common
Garcia's of Scottsdale, Inc., $.01 par common
Global Natural Resources PLC, $.01 par common
Great American Bancorp, No par common
Great Eastern Energy and Development Corporation, $.10 par common
Hei, Inc., $.05 par common
Health Care Fund, $1.00 par shares of beneficial interest
Heritage Bancorp (California), No par common
Home Depot, The, $.05 par common
Howard Bank, The (Burlington, VT), $5.00 par common
Hybritech Incorporated, No par common
Independence Bank Group, Inc. (Wisconsin), $8.33 ⅓ par common
Integrity Financial Group, Inc., The, $.01 par common
International Capital Equipment Limited, $.05 par common
International Game Technology, $.01 par common
Karcher, Carl Enterprises, Inc., No par common
Kenai Corporation, Warrants (expire 07-15-85)
Kloss Video Corporation, $.20 par common
Los Alamitos Race Course, $5.00 par capital
Louisville Gas and Electric Company, 7.45% cumulative preferred
Mathematica, Inc., $.10 par common
Mechanical Techonology, Inc., $1.00 par common
Metro Airlines, Inc., $.10 par common

[1] Filed as part of the original document.

Micro-Z Corp., $.001 par common
Moduline International, Inc., No par common
Monoclonal Antibodies, Inc., No par common
National Beryllia Corporation, $1.00 par common
New England Business Service, Inc., $1.00 par common
Nippon Electric Co., Ltd., American Depository Receipts for common stock (par value 50 yen)
North Atlantic Industries, Inc., $.10 par common
Odetics, Inc., $.10 par common
Old Stone Corporation, Series B, 12% preferred
Optel Corporation, $.01 par common
Pansophic Systems, Inc., No par common
Pentair, Inc., $1.00 par cumulative convertible preferred
Prab Robots, Inc., $.10 par common
Rehab, C. P. Corp., Warrants (expire 08–14–85)
SAB Harmon Industries, Inc., $.25 par common
SAL Cable Communications, Inc., $.01 par common
SI Handling Systems, Inc., $1.00 par common
Sage Drilling Company, Inc., $.01 par common
Scitex Corporation Ltd., Ordinary shares, Is $1.80 par value
Seagate Techonology, No par common
Sippican Ocean Systems, Inc., $1.00 par common
Softech, Inc., $.10 par common
Sonesta International Hotels Corporation, $.80 par common
Spang Industries Inc., $1.00 par common
Sterner Lighting Systems Incorporated, $.10 par common
Sun Banks of Florida, Inc., $4.375 cumulative convertible preferred
Sunlite Oil Company of Delaware, $1.00 par common
Systematics, Inc., $.025 par common
Texas Federal Savings and Loan Association, $.01 par common
Transworld Bank (California), $2.00 par common
Tull, J. M. Industries, Inc., $1.00 par common
Universal Health Services, Inc., Class B, $.01 par common
Vallen Corporation, $.50 par common
Vector Graphic, Inc., No par common
Westcoast Petroleum Ltd., $2.00 par common
Wilson Foods Corporation, $.50 par common

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Allied Van Lines, Inc., Class B, no par common
American Home Shield Corporation, $.01 par common
Baker Bros., Inc., $.10 par common
Computer Communications, Inc., $1.00 par common
FSC Corporation, $.01 par common, $.01 par convertible preferred
Gilman Services, Inc., $.10 par common
Helix Technology, Inc., $1.00 par common
Hibernia Bancshares Corporation, $6.25 par common
Key Energy Enterprises, Inc., $.10 par common
King International Corporation, $1.00 par common
Mini-Computer Systems, Inc., $.10 par common
Old Stone Corporation, $1.00 par cumulative convertible preferred
Oregon Trail Savings and Loan Association, $2.00 par common
Overmyer Corporation, No par common
Reserve Oil and Minerals Corporation, $1.00 par common
Security American Financial Enterprises, Inc., $1.00 par common
Solid State Technology Inc., $.01 par common
TPC Communications, $.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

All American Industries, Inc., $.10 par common
Altex Oil Corporation, $.01 par common
American Microsystems, Inc., $1.00 par common
Anacomp, Inc., $1.00 par common, 9.50% convertible subordinated debentures
Austin Bancshares Corporation, $1.00 par common
Avery Coal Co., Inc., $.10 par common
Berry Industries Corporation, $1.00 par common
Biomedical Reference Laboratories, Inc., $.10 par common
Bolar Pharmaceutical Co., Inc., $.01 par common
Cullinane Database Systems, Inc., $.10 par common
DSI Corporation, $.16⅔ par common
Datavision, Inc., $.01 par common
Fabri-Tek Inc., $.10 par common
First Artists Production Company, Ltd., $.10 par capital
First Colony Life Insurance Company, $1.00 par common
First Marine Banks, Inc., $1.00 par common
General Automotive Parts Corporation, No par common
Griffin Petroleum Corporation, No par common
Hardwicke Companies Incorporated, $1.00 par common
Heritage Communications, Inc., $.50 par common, No par convertible preferred
Informatics, Inc., $.15 par common
Jamaica Water Properties Inc., $.10 par common
Jhirmack Enterprises, Inc., $.10 par common
Keuffel & Esser Company, $1.00 par common
Lake Superior District Power Company, $10.00 par common
Lakewood Bank and Trust Company, $3.00 par common
Limited Stores, Inc., The, No par common
Luby's Cafeterias, Inc., $.32 par common
Magma Power Company, $.10 par common
Mallinckrodt, Inc., $1.00 par common
Medcom, Inc., $.10 par common
Midwestern Distribution, Inc., Class A, no par common
Phoenix Resources Company, Class B, $1.00 par common
Poly-Southfield Corporation, No par common
Preston State Bank (Dallas, TX), $2.50 par capital
Raychem Corporation, No par common
Roper Industries, Inc., $5.00 par common
Standard Logic, Inc., $.025 par common
Wespercorp, No par common
Worcester Bancorp, Inc., $1.00 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), July 6, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–19048 Filed 7–12–82; 10:01 am]
BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–NE–20; Amdt. 39–4417]

Airworthiness Directives; Pratt & Whitney Aircraft JT9D–20 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an Airworthiness Directive (AD) that requires installation of riveted segmented strengthening plates and improved attachment hardware on the rear face of the fan exit case front flange ("B" flange) on JT9D–20 engines installed in wing positions on DC–10–40 aircraft. This action is required to prevent separation of the fan case assembly from the front fan exit case, at the "B" flange attachment area, which can occur under certain aerodynamic loads following a fan blade fracture.

DATES: Effective date.—This amendment is effective on August 16, 1982. Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.[1] A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher (ANE–141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7347.

[1] Service Bulletin No. 5335 is filed as part of the original document.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Pratt & Whitney Aircraft JT9D–20 turbofan engines, which would require installation of riveted segmented strengthening plates and improved attachment hardware on the rear face of the fan exit case front flange, was published in the **Federal Register** on March 15, 1982 (47 FR 11034).

There have been seven fan blade failures on JT9D–20 engines resulting from arc burn, foreign object damage (FOD), and manufacturing defects. Each failure caused secondary damage to "B" flange and attachment hardware. "B" flange provides attachment of the fan case and front fan exit case. One fan blade failure resulted in separation of the nose cowl assembly and fan case from a wing engine. The fan case separated at "B" flange. Subsequent analysis of the capability of "B" flange indicates that under certain conditions "B" flange load capability becomes marginal for wing engines. As a consequence, it is the intent of the AD to require modification of the flange and fasteners to improve "B" flange capability under adverse conditions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Comments were received from the National Transportation Safety Board (NTSB) and Northwest Orient Airlines (NWA). NTSB indicated that it supports the proposed action, which is consistent with its Safety Recommendation No. A–81–70. No adverse comments were received, and accordingly, the N.P.R.M. was adopted as proposed.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

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

Pratt & Whitney Aircraft

Applies to all JT9D–20 engines installed in wing positions on DC–10–40 aircraft.

Compliance required on installed engines prior to March 31, 1984, unless already accomplished.

To preclude "B" flange separation under adverse conditions, rework fan exit case assembly, incorporate riveted segmented strengthening plates along with improved "B" flange attachment hardware, and reidentify components in accordance with Pratt & Whitney JT9D–20 Service Bulletin No. 5335, dated September 3, 1981, or later revision approved by the Chief, Engine Certification Branch, FAA, New England Region.

Note.—Rework, replacement, and addition of various airframe brackets are necessary to ensure compatibility with the flange modifications specified in Pratt & Whitney Aircraft Service Bulletin No. 5335.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD which includes the material in full is maintained by the FAA at the New England Region Office.

This amendment becomes effective on August 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because the rule will affect only domestic air carriers using DC–10–40 aircraft in which the JT9D engines are installed in wing positions, none of which are small entities. Regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained in writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 81–NE–20, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on June 30, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82–18971 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 23178; Amdt. No. 1220]

Standard Instrument Approach Procedures

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

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, D.C. 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 Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 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, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

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, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Index

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

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:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * *Effective September 2, 1982*

Greeley, CO—Weld County Muni, VOR–A, Amdt. 5

Ames, IA—Ames Muni, VOR Rwy 31, Amdt. 6

Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 14, Amdt. 2

Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 32, Amdt. 2

Pittstown, NJ—Alexandria, VOR Rwy 8, Original

* * * *Effective August 19, 1982*

Siloam Springs, AR—Smith Field, VOR–A, Amdt. 6

Miami, FL—Miami Intl, VOR Rwy 12, Amdt. 26

Fort Leavenworth, KS—Sherman AAF, VOR–A, Amdt. 1

New Roads, LA—False River Air Park, VOR/DME–A, Amdt. 2

Dunkirk, NY—Dunkirk Muni, VOR Rwy 24, Amdt. 5

McAlester, OK—McAlester Muni, VOR/DME Rwy 19, Orig.

* * * *Effective June 29, 1982*

Lyons, KS—Lyons-Rice County Muni, VOR/DME–A, Amdt. 1

Barre-Montpelier, VT—Edward F. Knapp State, VOR Rwy 35, Amdt. 5, cancelled

* * * *Effective June 25, 1982*

Port Lavaca, TX—Calhoun County, VOR/DME–A, Amdt. 2

* * * *Effective June 22, 1982*

Maxton, NC—Laurinburg-Maxton, VOR/DME–A, Amdt. 4

Note.—The FAA published an amendment in Docket No. 23079, Amdt. No. 1218 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 114 page 25511; Dated June 14, 1982) under section 97.23 effective August 5, 1982, which is hereby amended as follows: Esterville, IA—Esterville Muni, VOR/DME–A, original, cancelled.

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective September 2, 1982*

Ft. Leonard Wood, MO—Forney AAF, LOC, Rwy 14, Amdt. 3

Laconia, NH—Laconia Muni, LOC Rwy 8, Amdt. 5

Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 6

* * * *Effective August 19, 1982*

Ontario, CA—Ontario Intl, LOC Rwy 26R, Original, cancelled

* * * *Effective August 5, 1982*

Indianapolis, IN—Indianapolis Intl, LOC BC RW 13, Amdt. 9, cancelled

Olathe, KS—Johnson County Executive, LOC Rwy 17, Amdt. 2

Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, LOC BC Rwy 31, Amdt. 5, cancelled

* * * *Effective June 22, 1982*

Maxton, NC—Laurinburg-Maxton, SDF Rwy 5, Amdt. 3

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective September 2, 1982*

Milford, IA—Fuller, NDB Rwy 18, Amdt. 1

Monticello, IA—Monticello Muni, NDB–A, Amdt. 1

Spirit Lake, IA—Spirit Lake Muni, NDB Rwy 16, Amdt. 5

Spirit Lake, IA—Spirit Lake Muni, NDB Rwy 34, Amdt. 1

Colby, KS—Shalz Field, NDB Rwy 17, Amdt. 2

Ft. Leonard Wood, MO—Forney AAF, NDB Rwy 32, Amdt. 2

Laconia, NH—Laconia Muni, NDB Rwy 8, Amdt. 5

Bogalusa, LA—George R. Carr Memorial Air Fld., NDB Rwy 18, Orig.

Barre-Montpelier, VT—Edward F. Knapp State, NDB Rwy 35, Original

Melfa, VA—Accomack County, NDB Rwy 3, Amdt. 5

Milwaukee, WI—General Mitchell Field, NDB Rwy 1L/R, Amdt. 1

Milwaukee, WI—General Mitchell Field, NDB Rwy 7R, Amdt. 9

* * * *Effective August 19, 1982*

Heber Springs, AR—Heber Springs Muni, NDB–A, Amdt. 4

Sandersville, GA—Kaolin Field, NDB Rwy 12, Orig.

Fort Leavenworth, KS—Sherman AAF, NDB Rwy 33, Amdt. 1

Breckenbridge, TX—Stephens County, NDB–A, Amdt. 1

* * * *Effective August 5, 1982*

Olathe, KS—Johnson County Executive, NDB Rwy 17, Original

Springfield, MO—Springfield Regional, NDB Rwy 1, Amdt. 14

* * * *Effective June 29, 1982*

Lyons, KS—Lyons-Rice County Muni, NDB Rwy 17R, Amdt. 4

* * * *Effective June 28, 1982*

Athens, TN—McMinn County, NDB Rwy 20, Amdt. 3

* * * *Effective June 25, 1982*

Port Lavaca, TX—Calhoun County, NDB Rwy 14, Amdt. 2

* * * *Effective June 22, 1982*

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 27R, Amdt. 2

Maxton, NC—Laurinburg-Maxton, NDB Rwy 5, Amdt. 5

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective September 2, 1982*

New York, NY—J. F. Kennedy Intl, ILS Rwy 4R, Amdt. 26

Milwaukee, WI—General Mitchell Field, ILS Rwy 1L, Amdt. 4

Milwaukee, WI—General Mitchell Field, ILS Rwy 7R, Amdt. 12

Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 7

* * * *Effective August 19, 1982*

Ontario, CA—Ontario Intl, ILS Rwy 26R, Orig.

* * * *Effective August 5, 1982*

Indianapolis, IN—Indianapolis Intl, ILS Rwy 13, Original

Springfield, MO—Springfield Regional, ILS Rwy 1, Amdt. 14

Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, ILS Rwy 31, Original

* * * *Effective June 23, 1982*

Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 4, cancelled

Note.—The FAA published an amendment in Docket No. 23142, Amdt. No. 1219 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 124 page 27852; Dated June 28, 1982) under section 97.29 effective August 5, 1982, which is hereby amended as follows: Bellaire, MI—Antrim County, MLS Rwy 2 (Interim) Amdt 5, cancelled.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective September 2, 1982*

Ft. Leonard Wood, MO—Forney AAF, RADAR-1, Amdt. 2

* * * *Effective August 19, 1982*

Miami, FL—Miami Intl, RADAR-1, Amdt. 21

Harrisburg, PA—Capital City, RADAR-1, Amdt. 8

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective September 2, 1982*

Ames, IA—Ames Muni, RNAV Rwy 13, Amdt. 3

Ames, IA—Ames Muni, RNAV Rwy 31, Amdt. 3

. . . *Effective August 19, 1982*

Miami, FL—Miami Intl, RNAV Rwy 9L, Amdt. 8

Alma, MI—Gratiot Community, RNAV Rwy 27, Amdt. 4

Note.—The FAA published an amendment to Docket No. 23079, Amdt. No. 1218 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 114 page 25511; dated June 14, 1982) under section 97.33 effective August 5, 1982, which is hereby amended as follows: Manchester, NH—Manchester Airport-Grenier Industrial Airpark, RNAV Rwy 6 Amdt 1 is rescinded. RNAV Rwy 6 Original remains in effect.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—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. 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.

Issued in Washington, D.C. on July 2, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-18996 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3092]

Onkyo U.S.A. Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Ramsey, New Jersey manufacturer and seller of audio components to cease, among other things, attempting to fix the resale prices at which its products are advertised or sold, through coercion or otherwise. The firm is also barred from restricting the lawful use of its trademarks and brand names; seeking the identity of dealers who deviate from suggested resale prices; and disseminating suggested resale prices for a period of two years, unless such prices are accompanied by a specified disclosure statement. The order further requires the firm to send a copy of the order to all sales and advertising personnel and, for a three-year period, to mail to all present and future accounts a letter describing the order.

DATES: Complaint and order issued July 2, 1982.[1]

FOR FURTHER INFORMATION CONTACT: Judith D. Ford, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102. (415) 556-1270, or FTC/C, John Seesel, Washington, D.C. 20580. (202) 523-3484

SUPPLEMENTARY INFORMATION: On Friday, September 25, 1981, there was published in the **Federal Register**, 46 FR 47234, a proposed consent agreement with analysis In the Matter of Onkyo U.S.A. Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its modified order to cease and desist, as set forth below, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions. Subpart—Maintaining Resale Prices: § 13.1160 Refusal to sell; § 13.1165 Systems of espionage.

List of Subjects in 16 CFR Part 13

Audio components, Electronic products.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

United States of America

Before Federal Trade Commission

Commissioners: James C. Miller III, Chairman, David A. Clanton, Michael Pertschuk, Patricia P. Bailey

In the matter of Onkyo U.S.A. Corporation, a corporation; Docket No. C-3092, Decision and Order.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint,

[1] Copies of the Complaint and the Decision and Order filed with the original document.

makes the following jurisdictional findings and enters the following order:

1. Respondent Onkyo U.S.A. Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 200 Williams Drive, in the City of Ramsey, State of New Jersey.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any audio component, including but not limited to any tuner, amplifier, tape deck, receiver, speaker, changer, turntable or headphone, or any related product, which is manufactured, offered for sale or sold by respondent Onkyo U.S.A. Corporation.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any retail price suggested or established by respondent, any customary resale price or the retail price in effect at any dealer.

It is ordered that respondent Onkyo U.S.A. Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any resale price.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

6. Terminating, coercing or taking any other action to restrict, prevent or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

7. Taking any action to hinder or preclude the lawful use by any dealer of any of respondent's trademarks in conjunction with the sale or advertising of any product.

II

It is further ordered that respondent shall clearly and conspicuously state the following on each page of any list, advertising, book, catalogue or promotional material where respondent has suggested any resale price to any dealer: "The Resale Prices Quoted Herein Are Suggested Only. You Are Free To Determine Your Own Resale Prices."

III

It is further ordered that respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new account within three (3) years after service of this Order.

IV

It is further ordered that respondent shall forthwith distribute a copy of this Order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this Order, and that respondent secure from each such person a signed statement acknowledging receipt of said Order.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VI

It is further ordered that respondent shall within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

By direction of the Commission.

Issued: July 2, 1982.

Statement Regarding Modification of Consent Agreement With Onkyo U.S.A. Corporation

The Federal Trade Commission provisionally accepted and sought public comment on a consent agreement negotiated by its staff and Onkyo U.S.A. Corporation. That agreement was entered to settle proposed charges that Onkyo engaged in resale price maintenance in the sale of audio components. As originally presented to the Commission the proposed consent order contained a two-year ban on Onkyo's use of suggested resale prices, as well as a prohibition against Onkyo's restriction of dealers' prices. Upon final consideration the Commission has determined that the moratorium on suggested resale prices constitutes relief that is inappropriate under the circumstances of this particular case. Therefore, the Commission has removed the prohibition on the use of suggested resale prices from the order.[1] In modifying the proposed consent order in this fashion, the Commission continues to recognize that, in some circumstances, the use of suggested resale prices may serve procompetitive purposes. For example, suggested resale prices may be especially beneficial to manufacturers seeking to enter markets in which essential information about products—such as relative quality and value—is complex. Thus, the Commission will continue to evaluate the need for a ban on suggested resale prices as a remedy on a case-by-case basis.

In prohibiting Onkyo from restricting its dealers' prices, the Commission intends to prohibit only those actions that are aimed at maintaining specific resale prices (or maintaining prices within a particular range). However, the order does not preclude Onkyo from initially selecting its dealers and establishing performance criteria that are otherwise reasonable under the antitrust laws. The fact that a dealer who failed to live up to those criteria might also be a discounter would not necessarily preclude Onkyo from taking corrective action against the dealer, so long as the termination was undertaken for legitimate reasons related to those criteria and not as a means of coercing resale price maintenance.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19194 Filed 7-14-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Under the order, Onkyo will still be required clearly and conspicuously to label any suggested resale prices as such.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157, 284, and 375

[Docket No. RM81-19-000]

Interstate Pipeline Certificates for Routine Transactions; Approval of Office of Management and Budget; Correction

Issued: July 2, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction Notice and Notice of Approval of Office of Management and Budget.

SUMMARY: This document makes technical corrections to the Final Rule regarding interstate pipeline certificates of routine transactions issued May 28, 1982, in Docket No. RM81–19–000 that appeared in the **Federal Register** on June 4, 1982 (47 FR 24254). In addition, this document gives notice that the Federal Energy Regulatory Commission (Commission) has received approval from the Office of Management and Budget (OMB) to collect the data required in the final rule. The approval is effective through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The following technical corrections and additions are made in FR Doc. 82–15143, appearing on page 24254 of the issue of June 4, 1982.

1. In Part IV of the preamble, entitled Summary of the Rule (*Mimeo* page 61), at 47 FR 24265, the reference to "§ 375.302(a)" in the third column is corrected to read "§ 375.302(s)".

Appendix I [Amended]

2. The OMB control number is added parenthetically at the end of the regulations and before Appendix I in Subpart F of the Part 157 (*Mimeo* page 101), at 47 FR 24273, to read as follows: "(OMB Control Number 19020060.)"

§ 375.307 [Amended]

3. Paragraph (a) of § 375.307 (*Mimeo* page 110), at 47 FR 24274, is corrected to read as follows:

"(a) Pass upon the following types of uncontested applications or uncontested amendments to applications and impose appropriate conditions:"

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19203 Filed 7–14–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 281

[Docket Nos. RM79–400–000, RM79–40–002 through 012; Order No. 55–C]

Determination of Alternative Fuels for Essential Agricultural Users; Order Denying Rehearing

Issued: June 29, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: On August 11, 1980, the Federal Energy Regulatory Commission (Commission) issued a final rule (45 FR 54733, August 18, 1980) implementing the alternative fuel test for essential agricultural users of natural gas under Title IV of the Natural Gas Policy Act of 1978. Eleven persons filed applications for rehearing or petitions for reconsideration of the final rule. The Commission denies the applications for rehearing and petitions for reconsideration because they raise no issues or present no data that were not fully considered by the Commission during development of the final rule or which, now having been considered, warrant modification of the final rule on rehearing.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

Curtailment plans of interstate natural gas pipelines establish priority-of-service categories that are used during periods of natural gas shortages. In times of shortage, the users of natural gas which are placed in lower priorities are the first to be curtailed and those in higher categories are curtailed last.

Section 401(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432) (NGPA) provides that, in the curtailment plans of interstate natural gas pipelines, essential agricultural uses must be given a high priority status second only to certain other enumerated priority uses. In other words, in the event of a shortage of natural gas in the system, the pipeline must curtail service to all other classified users, except high priority users, before curtailing service to essential agricultural users. Inclusion in the priority afforded under section 401(a) is restricted by section 401(b) however. The curtailment priority status which section 401(a) provides essential agricultural uses is inapplicable if the Federal Energy Regulatory Commission (Commission), in consultation with the Secretary of Agriculture, determines that there is an alternative fuel that is economically practicable and reasonably available (the alternative fuel test). An essential agricultural use which is determined to have an alternative fuel that is economically practicable and reasonably available is placed in the lower curtailment priority that the use occupied prior to a certification by the Secretary of Agriculture that the use is an essential agricultural use.

On August 11, 1980, the Commission issued a final rule to implement section 401(b) of the NGPA (Order No. 55–B, 45 FR 54733, August 18, 1980). Like the interim rule promulgated for the 1978–79 winter heating season (44 FR 62484, October 31, 1979), the final rule provides that residual fuel oil [1] and coal are economically practicable and reasonably available alternative fuels for essential agricultural users which have fuel requirements in excess of 300 Mcf per day and which have the installed ability to use these alternative fuels. The Commission declined to exercise its discretion to determine No. 2 fuel oil and propane to be economically practicable alternative fuels.

II. Applications for Rehearing and Reconsideration

The Commission received timely applications for rehearing of the final rule from the American Bakers Association, The Brooklyn Union Gas Company, Distilled Spirits Council of the United States, The Fertilizer Institute, The Great Western Sugar Company, National Renderers Association, Inc., Petrochemical Energy Group, The Process Gas Consumers Group and the Georgia Industrial Group (filing jointly), and United Gas Pipeline Co.

On September 11, 1980, Mars, Inc. (Mars) filed a petition for reconsideration and The National Council of Farmer Cooperatives (NCFC) submitted a late application for rehearing. In this order, the Commission treats the late-filed application of NCFC as a petition for reconsideration and considers both petitions for reconsideration on the merits.

On October 8, 1980, the Commission granted rehearing of the final rule in this docket solely for the purpose of further consideration.

III. Discussion

A. *Economic Practicability.* Based on the record in this proceeding and the relevant legislative history, the Commission determined, in the final rule, that residual fuel oil and coal are reasonably available and economically practicable as alternative fuels under the terms of section 401(b) of the NGPA. The Commission, however, did not find that No. 2 fuel oil or propane were economically practicable alternatives for essential agricultural uses of natural gas.

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[1] Residual fuel oil means "Nos. 5 and 6 oil, Bunker C, and Navy Special as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM, D396." 18 CFR 281.303(n).

In the final rule, the commission considered and rejected a suggestion submitted in response to the Notice of Proposed Rulemaking (45 FR 39283, June 10, 1980) that an alternative fuel should be determined to be economically practicable only if that fuel would cost the same as, or less than, natural gas. The Commission stated that such an economic practicability standard would render section 401(b) of the NGPA virtually meaningless, because, based on data in the record that showed all liquid fuels exceed natural gas in price, there would be no liquid fuels that would qualify as alternative fuels. In other words, the consequence of limiting economic practicability to price equivalency would be that no essential agricultural user that could use liquid fuels would be required to accept a priority lower than priority 2 when natural gas is less expensive than liquid fuels. The Commission believes that it may be appropriate under section 401(b) of the NGPA for some essential agricultural uses not to receive priority 2 status, even if curtailment leads to the consumption of fuels which cost more than natural gas. In the final rule, the Commission noted that reliance solely on a price comparison test would ignore other factors that affect the cost of food,[2] such as the number of days a user would be curtailed in times of a shortage.

Several applicants for rehearing allege, as they have previously, that the Commission erred in determining that residual fuel oil is economically practicable and in failing to use a simple comparison of fuel prices as a test for economic practicability. These applicants argue that the Congress, in 1978, anticipated that certain fuels would be declared economically practicable because the Congress expected natural gas prices to equal or exceed those of liquid fuels as a result of increased ceiling prices for first sale gas and the deregulation of some natural gas pricing categories after 1985. However, in 1979, OPEC increased the price of crude oil and, as a result, residual fuel oil now costs significantly more than gas. The applicants argue that the OPEC increase was unexpected and that the Congress did not anticipate the result. The Commission's rule is, therefore, viewed as inconsistent with congressional intent.

The Commission is not persuaded by this argument. The applicants provide no evidence that, in enacting section 401(b), the Congress assumed that oil prices would not increase faster than the price of natural gas. The contention that the Congress expected natural gas to exceed liquid fuels in cost and therefore intended the alternative fuel test to be based on a simple comparison of prices is unsupported. The Congress was certainly aware, in 1978, that the OPEC cartel had the capability to increase oil prices and had done so on prior occasions. There is no compelling reason to assume that the Congress enacted section 401(b) of the NGPA on the assumption that further oil price increases would not occur.

Some applicants also challenge the Commission's use of average annual fuel oil prices for 1979 as a basis for its decision to view residual fuel oil as an economically practicable alternative fuel. They argue that the use of average prices obscured the dramatic increase in fuel oil prices in that year which was evidenced by monthly increases in imported crude oil prices in 1979 and, especially, in January 1980. The applicants imply that such price increases made residual fuel oil economically impracticable as an alternative fuel. One applicant further notes that monthly increases in imported crude oil prices continued through June 1980.

The Commission has reviewed its use of average annual prices, including those for 1979. The use of average annual figures instead of the most recent monthly prices provides a better assessment of the likely economic results of finding residual fuel oil to be an economically practicable alternative, because average annual prices provide a more complete picture of long term trends than do monthly prices which may vary due to seasonal and other short-term price variability. For example, Form 423 data published by DOE for the first six months of 1980 (the time period noted by one applicant) indicate that No. 6 fuel oil prices tended to fluctuate and in June 1980 were 8 percent lower than in January 1980.[3] This confirms the Commission's original opinion that a decision on whether residual fuel oil is an economically practicable alternative need not be based on monthly data.

Applicants further criticize the Commission's analysis in the final rule insofar as the Commission relies on a comparison of the price of No. 6 fuel oil to the price of No. 2 fuel oil to demonstrate the economic practicability of No. 6 fuel oil. They argue that a determination that No. 6 fuel oil is an economically practicable alternative to natural gas could not have been made if the Commission had compared the price of No. 6 fuel oil to the price of natural gas, rather than that of No. 2 fuel oil.

It is inaccurate to imply that the Commission ignored all factors and price differentials other than the difference between the price of No. 2 fuel oil, the most expensive of the alternative liquid fuels, and No. 6 fuel oil. Appendix A to the final rule sets forth a comparison of prices and price differentials for gas and all the fuel alternatives considered by the Commission. As noted above and in the preamble to the final rule, the Commission considers that a comparison of natural gas and oil prices is not the only relevant factor upon which the Commission should make the alternative fuel determination under section 401 of the NGPA. By considering the relative prices of No. 6 and No. 2 fuel oils,[4] the likely rate of increase in their relative prices,[5] and projected levels of curtailment,[6] the Commission developed a picture of the economic consequences of using various alternative fuels that is more complete than an analysis that is predicated only on the relative proximity of natural gas and fuel oil prices.

Several applicants object to the Commission's decision that No. 2 fuel oil is not an economically practicable alternative to natural gas. They allege that there is no rational basis for not finding No. 2 fuel oil to be economically practicable, especially in view of the Commission's determination that low sulfur No. 6 fuel oil, a fuel which they claim costs about the same as No. 2 fuel oil, is economically practicable. In support of this argument, one applicant refers to the "unchallenged expert evidence" of its witness that the absolute price differential between No. 2 and low sulfur No. 6 fuel oils will be generally no greater than 15 percent in constant dollars.

The Commission believes that there is some uncertainty inherent in predicting future price differentials and that any analysis of future fuel oil prices is bound to be somewhat speculative. The testimony relied upon by the applicant does not, in the Commission's opinion, provide a sufficient basis for finding that No. 2 fuel oil is economically practicable. In addition, recent Form 423 data show that, for 1981, the absolute price differential between No. 2 and low sulfur No. 6 fuel oils was 22.5 percent.[7]

[2] As noted in the preamble to the final rule, the Conference Report states that the special priority for essential agricultural uses was established to "prevent unnecessary increases in the cost of food in this country." H.R. Rep. No. 95-1752, 95th Cong., 2d Sess. 114.

[3] *See* Appendix B to this order.

[4] 45 FR at 54736.

[5] *Id.*

[6] *Id.*

[7] *See* Appendix A to this order.

After analysis of the record, the relevant market factors, and the trends in reliable data, the Commission, in its discretion, made a policy decision that it continues to believe will fulfill the statutory purpose of section 401 of the NGPA to provide for orderly curtailment of natural gas service without unnecessarily increasing the cost of food or requiring essential agricultural users to switch to high cost alternative fuels. The applications for rehearing present no new facts or issues of law that warrant a change in the Commission's determination that residual fuel oil and coal are the only economically practicable alternative fuels to natural gas under section 401(b) of the NGPA.

B. *Reasonable Availability.* Several applicants challenge the determination in the final rule that residual fuel oil is reasonably available. In particular, one applicant challenges the determination by claiming that DOE predicts that oil supplies will continue to decline as prices escalate. Another applicant argues that residual fuel oil is not reasonably available because there has been a decline in residual fuel oil stocks.

From June 1980 through May 1981 residual fuel oil stocks were in the range considered normal by DOE. Although the residual fuel oil stocks declined from June 1981 through December 1981, they have nevertheless remained above the level considered to be a minimum operating inventory.[8] Therefore, the Commission is not persuaded to alter its determination in the final rule that residual fuel oil is, for the present, reasonably available to essential agricultural users with the capability to use it. As noted in the final rule, however, the Commission intends to reconsider that rule as circumstances require.

One applicant argues that the Commission's finding that residual fuel oil is reasonably available is inconsistent with Order No. 30–D [9] which extended the fuel oil displacement program. That program authorizes the transportation of natural gas for the purpose of encouraging large users to displace fuel oil with natural gas. In support of its argument, the applicant states that one result of finding residual fuel oil to be reasonably available is to foster the use of residual fuel oil in situations where natural gas otherwise would be used.

This argument misapprehends both the purpose of the fuel oil displacement program and the final rule. The final rule is part of a larger program to determine, in times of a shortage of natural gas supplies, which users will receive the limited supplies and which will be required to switch to alternative fuels. During such times, lower priority industrial and utility uses will be curtailed before higher priority uses, such as essential agricultural uses. On the other hand, the fuel oil displacement program is intended to displace fuel oil used by lower priority industrial and utility users with surplus supplies of natural gas, and interstate pipeline systems which are experiencing curtailments of natural gas will probably not be selling gas under the Order No. 30 program. As stated in Order No. 30–E, "it is unlikely that Order No. 30 sales will be made by systems experiencing a serious threat of curtailment." [10] The determination that residual fuel oil is reasonably available as an alternative to natural gas when natural gas is curtailed is not, therefore, inconsistent with the Commission's efforts to displace fuel oil in another context.

C. *Installed Capability.* The final regulations apply only to those facilities that have the installed capability to use the fuels determined by the Commission to be economically practicable and reasonably available.[11] Thus, there is no requirement that an essential agricultural user would be compelled by curtailment to rely on an alternative fuel if the user's facility did not have the capability to use that fuel. In other words, the final rule does not require that an essential agricultural user incur any conversion costs.

Some applicants, however, argue that an alternative fuel test should be based on a user's ability to convert its facilities to use fuels other than gas. Citing Opinion No. 92,[12] one applicant points out that the Commission has often recognized that, for larger volume fuel users, the cost of conversion to alternative fuels is relatively low.

The Commission has, in the context of establishing curtailment plans, concluded that it is relatively less expensive for large users to convert to alternative fuels than it is for small users to do so. However, the *relative* cost of conversion is irrelevant to the determination of what fuels are economically practicable within the meaning of section 401(b) of the NGPA. Under that section, the relevant consideration is whether an essential agricultural user should be required to bear the costs of conversion to an alternative fuel, thereby losing its priority 2 status. In the final rule, the Commission took the position that the cost of conversion, in fact, contributes to the cost of using an alternative fuel and stated that "imposition of conversion costs could cause unnecessary increases in food costs * * *." [13] It remains the Commission's view that requiring any essential agricultural user, whose facilities can burn only gas, to convert those facilities so they can burn fuels other than natural gas would therefore be inconsistent with the Congress' mandate that the alternative fuel test under section 401(b) may not include a requirement to switch to high cost alternatives.[14] Therefore, the Commission will continue its existing policy which does not require essential agricultural users to install alternative fuel capability.

D. *Small Customer Exemption.* The final rule exempts small users from application of an alternative fuel test. Small users are defined in § 281.302(a)(2) as users that have requested 300 Mcf per day or less in priority 2 entitlements. One applicant objects to the 300 Mcf per day cut-off for the exemption because it is said to apply in a manner that unfairly penalizes agricultural users that combine a number of natural gas end-uses in one facility. The applicant suggests that, as an alternative, the exemption limit should be 300 Mcf per day for each type of end-use within a facility.

The Commission declines to adopt the applicant's proposal. The Commission adopted the small customer exemption because it would have been administratively burdensome and impracticable to gather data on all essential agricultural users which request 300 Mcf or less per day in priority 2 entitlements. The 300 Mcf limitation per user was chosen by the Commission because it is consistent with the threshold for small users in many Commission curtailment plans.[15] The fact that some users fail to qualify does not make the exemption unfair. The applicant has furnished no data or information to support either its

[8] *See* Appendix C to this order.

[9] Order No. 30–D, Docket No. RM79–34 (issued August 15, 1980), 45 FR 56046 (August 22, 1980).

[10] Order No. 30–E, Docket No. RM79–34 (issued September 26, 1980), 45 FR 66784, 66785 (October 8, 1980).

[11] New boilers, *i.e.* those boilers put into service for the first time after August 29, 1979, that have a capacity in excess of 300 Mcf of natural gas per day, are presumed to have installed alternative fuel capability. This presumption does not apply to diesel engines or turbines designed to use distillate fuels as the only substitute for natural gas. 18 CFR 281.304(b).

[12] Docket No. RM78–4, *et al.* (issued August 4, 1980), 12 FERC paragraph 61,129.

[13] 45 FR at 54736.

[14] Conference Report, *supra* note 2, at 114.

[15] *See e.g.*, Opinion No. 98 Lehigh Portland Cement Co. v. Florida Gas Transmission Co., Docket No. RP75–79 (Phase II), October 10, 1980, at 21, *appeal pending sub. nom.* Cities of Lakeland, *et al.*, v. *FERC*, No. 81–5208, *et al.* (5th Cir.).

allegation of unfairness or its proposal for a different application of the 300 Mcf limit for the small customer exemption. The commission therefore will continue to apply the exemption limit to entire facilities.

E. *Other Issues.* Additional issues are raised in the applications for rehearing and the petitions for reconsideration. These issues were adequately considered by the Commission when it promulgated the final rule. The Commission believes reconsideration of these issues in this order is therefore unnecessary.

IV. Conclusion

The applications for rehearing and petitions for reconsideration raise no issues and present no data that were not fully considered by the Commission during development of the final rule or which, now having been considered, warrant modification of the final rule on rehearing. The Commission believes that the alternative fuel test established in the final rule is the product of an informed use of Commission discretion to determine the appropriate criteria for the operation of natural gas curtailments under Title IV of the NGPA. Accordingly, for the reasons discussed above, the Commission denies rehearing and reconsideration of the final rule.

The Commission Orders:

The applications for rehearing and petitions for reconsideration are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

COMPARISON OF SELECTED PRICE DATA, FPC FORM NO. 423 V. MONTHLY ENERGY REVIEW—1976–1981

Type of fuel	FPC form No. 423 price data [1]						Monthly energy review price data [2]					
	1976	1977	1978	1979	1980	1981 [3]	1976	1977	1978	1979	1980	1981 [3]
Fuel oil:						Cents per million Btu						
No. 2	235.1	264.3	271.9	402.1	569.9	706.3	226.4	257.3	268.2	403.1	576.8	716.0
Low sulfur No. 6	207.1	229.1	225.1	320.2	464.3	576.4	193.6	221.3	216.8	322.4	467.0	582.6
High sulfur No. 6	168.7	199.9	186.7	264.7	359.3	457.1	165.9	195.2	186.1	261.5	351.7	457.3
All No. 6	195.9	220.4	212.3	299.7	428.1	529.0	182.8	210.4	202.7	297.0	415.0	518.8
Coal:												
All grades	84.8	94.7	111.6	122.4	135.1	153.3	84.8	94.7	111.6	122.4	135.1	153.3
Natural gas	103.4	130.0	143.8	175.4	221.4	282.8	97.2	131.9	154.1	201.8	[3]247.8	[3]316.5
Actual Price Difference (Fuel Oil and Coal v. Natural Gas)												
Fuel oil:												
No. 2	131.7	134.3	128.1	226.7	348.5	423.5	129.2	125.4	114.1	201.3	329.0	399.5
Low sulfur No. 6	103.7	99.1	81.3	144.8	242.9	293.6	96.4	89.4	62.7	120.6	219.2	266.1
High sulfur No. 6	65.3	69.1	42.9	89.3	137.9	174.3	68.7	66.3	32.0	59.7	103.9	140.8
All No. 6	92.5	90.4	68.5	124.3	206.7	246.2	85.6	78.5	48.6	95.2	167.2	202.3
Coal:												
All grades	(18.6)	(35.3)	(32.2)	(53.0)	(86.3)	(129.5)	(12.4)	(37.2)	(42.5)	(79.4)	(112.7)	(163.2)
Price Difference Ratio [4] (Fuel Oil and Coal v. Natural Gas)												
						Ratio						
Fuel oil:												
No. 2	1.274	1.033	.891	1.292	1.574	1.498	1,.329	.951	.740	.998	1.328	1.262
Low sulfur No. 6	1.003	.762	.565	.826	1.097	1.038	.992	.678	.407	.598	.885	.841
High sulfur No. 6	.632	.538	.298	.509	.623	.616	.707	.480	.208	.296	.419	.445
All No. 6	.895	.695	.476	.709	.934	.871	.881	.595	.315	.472	.675	.639
Coal:												
All grades	(.180)	(.272)	(.224)	(.302)	(.390)	(.458)	(.128)	(.282)	(.276)	(.393)	(.455)	(.516)

[1] As reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants* (Annual summary data 1976–1980) and Monthly Reports for January through December 1981. Note: All prices are delivered prices to steam electric plants. Prices paid for No. 6 fuel oil include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude. Note: Low sulfur No. 6 has 1 percent sulfur content or less.

[2] Fuel oil prices are reported on FEA Form P302–M–1, "Petroleum Industry Monthly Report for Product Prices." Natural Gas Prices are those paid by industrial customers of major interstate pipeline companies as reported on FPC Form No. 11, "Natural Gas Pipeline Company Monthly Statement" from 1976 through 1979. Note: Gas prices paid by industrial customers to interstate pipeline companies are no longer reported in EIA's MER. The 1980 natural gas price was taken from the EIA report entitled *Mainline Natural Gas Sales to Industrial Users, 1980* (December 1981); the 1981 gas price is based on the percentage increase in natural gas prices paid by steam electric plants from 1980 to 1981.

[3] Preliminary estimate based on Monthly Form 423 and Monthly energy Review data.

[4] Mathematically the price difference ratio is P_2-P_1/P_1; Where P_2=the price of fuel oil or coal and P_1=the price of natural gas. The ratio indicates the percent difference between natural gas and alternate fuel prices. For example, during 1981, electric utilities reported (in FPC Form 423) that they paid 1.498 times more (149.8 percent) for No. 2 fuel oil than they paid for natural gas.

Appendix B

MONTHLY PRICES PAID BY STEAM ELECTRIC PLANTS FOR SELECTED FUELS DURING 1980

Type of fuel	Average 1979 prices	1980											
		Jan.	Feb.	Mar.	April	May	June						
Actual Delivered Prices Paid (Cents per MMBtu)													
Fuel oil:													
No. 2	402.0	561.4	573.3	584.9	572.3	553.7	552.3						
Low sulfur No. 6	320.2	453.3	466.1	454.4	435.5	444.3	440.5						
High sulfur No. 6	264.7	361.4	358.6	324.4	291.3	311.1	309.5						
All No. 6	299.7	423.5	429.7	411.0	394.9	403.1	392.7						
Coal (all grades)	122.4	128.7	129.9	130.1	133.8	133.3	135.1						
Natural Gas	175.4	194.8	203.9	207.9	204.0	212.0	209.3						
Actual Price Differential (Fuel Oil and Coal Less Natural Gas)													
Fuel oil:													
No. 2	226.6	369.6	369.4	377.0	368.3	341.7	343.0						
Low sulfur No. 6	144.8	258.5	262.2	246.5	231.5	232.3	231.2						
High sulfur No. 6	89.3	166.6	154.7	116.5	87.3	99.1	100.2						

MONTHLY PRICES PAID BY STEAM ELECTRIC PLANTS FOR SELECTED FUELS DURING 1980—Continued

Type of fuel	Average 1979 prices	1980											
		Jan.	Feb.	Mar.	April	May	June						
All No. 6	124.3	228.7	225.8	203.1	190.9	191.1	183.4						
Coal (all grades)	(53.0)	(66.1)	(74.0)	(77.8)	(70.2)	(78.7)	(74.2)						
Price Difference Ratio [1] (Fuel Oil and Coal v. Natural Gas)													
Fuel Oil:													
No. 2	1.292	1.897	1.812	1.813	1.805	1.612	1.639						
Low sulfur No. 6	.826	1.327	1.286	1.186	1.135	1.096	1.105						
High sulfur No. 6	.509	.855	.759	.560	.428	.467	.479						
All No. 6	.709	1.174	1.107	.977	.936	.901	.876						
Coal (all grades)	(.302)	(.339)	(.363)	(.374)	(.344)	(.371)	(.355)						

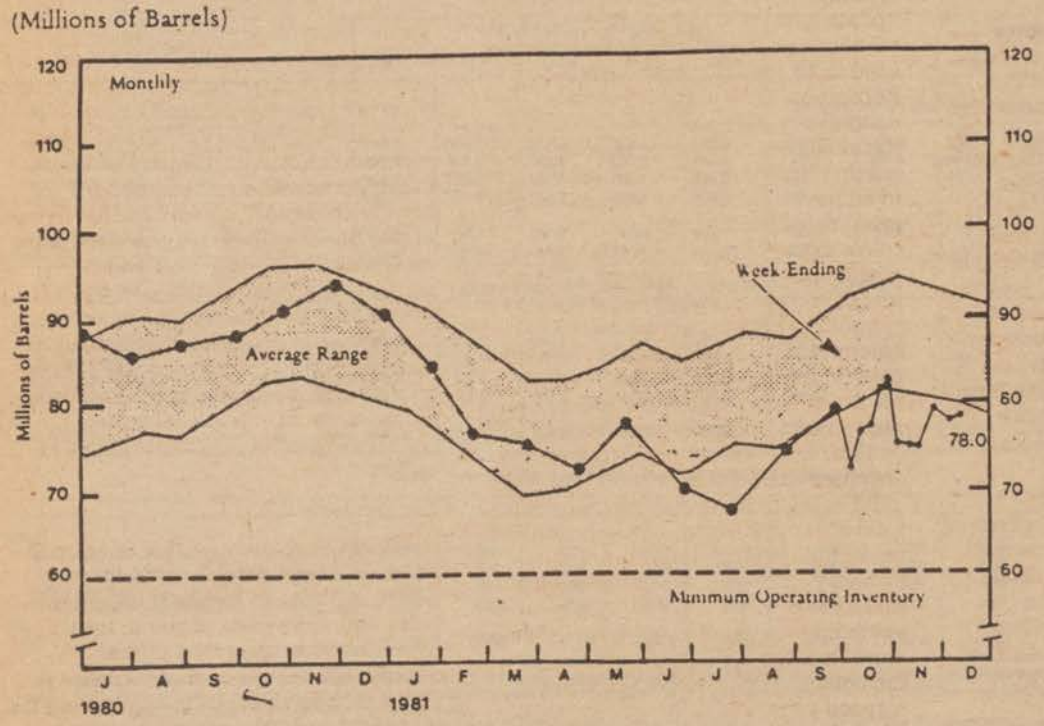
Source: FPC Form No. 423 as reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants*—Annual Summary Reports 1979 and 1980 and Monthly Reports for January through December 1980. *Note:* All prices are actual delivered prices to steam-electric plants. Prices paid for No. 6 fuel oil may include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

[1] Mathematically the price difference ratio is $P_2 - P_1 \div P_1$; where P_2= the price of fuel oil or coal and P_1 the price of natural gas.

BILLING CODE 6717-01-M

DOCKET NO. RM79-40-000, et al. APPENDIX C

STOCKS OF RESIDUAL FUEL OIL, U. S. TOTAL



SOURCE: DOE/EIA Weekly Petroleum Status Report, December 18, 1981, at 13. "Minimum Operating Inventory" is defined by the National Petroleum Council as the minimum level required for routine operation. By their definition, runouts and shortages would occur if inventory levels fall below that level.

[FR Doc. 82-19202 Filed 7-14-82; 8:45 am]
BILLING CODE 6717-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Computing Primary Insurance Amounts; Reorganization of Subpart, and Changes in Computing Dropout Years for Workers Entitled to Disability Insurance Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rules, with request for comments on specified rules.

SUMMARY: We are revising and reorganizing our rules on basic computations of primary insurance amounts under the Old-Age, Survivors, and Disability Insurance (OASDI) programs to make the rules clearer and easier to use. A worker's "primary insurance amount" is the basic figure we use to find the amount of his or her benefits, as well as those of his or her family. (Other rules affecting actual benefit amounts payable to individuals are in Subparts D and E.) Also, we are adding new rules on how to compute benefit computation dropout years for disabled workers. The authority for these new rules was added to the Social Security Act by the Social Security Disability Amendments of 1980 (Pub. L. 96–265).

EFFECTIVE DATE: These rules are effective upon publication in the **Federal Register.** However, in accordance with the law which the rules on the disability dropout reflect, the new rules on computing the dropout are effective for disabled workers who are first entitled to disability insurance benefits after June 1980, except that the rule on additional dropout years based on child care is applicable only for benefits payable for months after June 1981.

ADDRESSES: Send your written comments on the disability dropout for child care (§ 404.211(e)) to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 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: Jack Schanberger, Room 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6785.

SUPPLEMENTARY INFORMATION: In these revised and reorganized rules, we describe the two major methods of determining a worker's primary insurance amount; we also describe several special methods of determining primary insurance amounts and when and how we use these special methods. The rules include provisions for adjusting primary insurance amount automatically to keep up with rises in the cost of living. We also describe how a worker's primary insurance amount may be "recomputed" and "recalculated." Recomputations usually update a primary insurance amount to take into account earnings that were not used in an earlier computation. Recomputations never result in a decrease in a primary insurance amount. Recalculations may take into account a number of other factors and may result in either an increase or a decrease in a primary insurance amount.

We explain in the new rules how to compute the number of years of no or low earnings to be dropped out when computing the primary insurance amount for a disabled worker. We also explain that where this computation results in fewer than 3 dropout years, we can add 1 dropout year (up to a total of 3) for each year the worker met specified conditions for having had a child in his or her care; however, the total of regular dropout years and child care dropout year combined cannot exceed 3. Although the law provides that as many as 3 child care dropout years may be used, in actual practice no more than 2 can be dropped because of the combined effect of the number of elapsed years, the 1-for-5 dropout years (if any) and computation years required for computations to which the provision applies.

Revised and Reorganized Rules

On June 25, 1980, these revised rules were published in the **Federal Register** (45 FR 42647) as a Notice of Proposed Rulemaking. Later in this publication, we respond to the comments we received on the June 25 Notice. We are revising and reorganizing these complex rules as part of an effort to enhence the readability and understanding of our rules by the public.

On December 22, 1980, the new rule on computing the disability dropout was published in the **Federal Register** (45 FR 84086) as a Notice of Proposed Rulemaking. We received one favorable comment on the readability of the proposed regulations. We are incorporating this rule in this final regulation.

On January 8, 1981, a Notice of Proposal to Develop Regulations was published in the **Federal Register** (46 FR 2093) to announce a modification to the dropout provision to reflect requirements of the 1980 Amendments to the Social Security Act. This modification permits additional dropout years for a younger disabled worker who had no earnings because he or she was caring for a child. Since the modification does not go beyond the statutory mandates, in accordance with Section 553(b)(B) of the Administrative Procedure Act, we considered a Notice of Proposed Rulemaking to be unnecessary. Accordingly, we are now publishing the regulations as a final rule, but with a request for comments within 60 days after publication. This enables us to publish this entire Subpart which is current except for the provisions on minimum benefits and rounding of benefit amounts. To avoid further delay in this final regulation, the revised rules on these provisions, which were amended by Pub. L. 97–35 and by Pub. L. 97–123, will be issued in the near future as a Notice of Proposed Rulemaking. If necessary, we will respond in a future publication to any comments we receive on the rule for dropout years for disability insurance benefits based on child care.

Reorganization

We have reorganized this Subpart C to make it more readable. We have added subtitles to highlight important rules and make them easier to locate. The subpart is organized so that individuals can easily find the rules that apply to them without having to read the entire subpart.

We have moved the tables in the current §§ 404.223–404.227 to an appendix. Also, § 404.282, relating to "delayed retirement credits" has been removed from the revised subpart. We will continue to apply those rules though and they will be incorporated in Subpart E of Part 404.

Background

In the Social Security Amendments of 1977 (Pub. L. 95–216), Congress added to the Social Security Act a new method for computing the primary insurance amount. This change was necessary to eliminate an unintended result of the Social Security Amendments of 1972 whereby benefit rates were increasing too rapidly relative to past earnings for workers who would be eligible in the future. The increases would have meant

that future beneficiaries would receive benefits equal to or in excess of their preretirement earnings. Thus costs of the Old-Age, Survivors, and Disability Insurance programs were expected to rise rapidly in the 21st century. The 1977 Amendments substantially reduced both the expected costs and the long-range actuarial deficits that had been projected for these social security programs.

In the Social Security Disability Amendments of 1980 (Pub. L. 96–265), Congress provided a stricter and fairer method of computing the number of years of no or low earnings which can be dropped out when computing the primary insurance amount of a disabled worker. Now, we divide the elapsed years by 5 and disregard any fraction to get the number of dropout years, which in any event cannot exceed 5. Before the Amendments, 5 years of no or low earnings could be routinely dropped out of disability computations. This method allowed the young worker a higher proportion of dropout years to total years of earnings, and thereby resulted in a higher primary insurance amount than would have been computed for an older worker with a comparable wage history. This provision, which affects persons disabled before age 47, at least partially offsets an unwarranted advantage heretofore received by young workers.

To soften the effect of fewer dropout years for young disabled workers, Congress added a provision to permit additional dropout years for a young worker who had no earnings because he or she was caring for a child.

In § 404.211, we explain how to compute the number of dropout years for a worker who first becomes entitled to disability insurance benefits after June 1980.

Methods of Finding Primary Insurance Amounts—General

With some exceptions, the computation method contained in the 1977 legislation became effective for workers who in 1979 or later reach age 62, or who in 1979 or later become disabled or die before age 62. To prevent a sudden change in the rules from disadvantaging workers nearing age 62 at the time of enactment of the new method, the 1977 legislation retains the pre-1979 computation methods, with some modifications, as a guaranteed alternative to the new method for workers reaching age 62 before 1984. Of course, the pre-1979 methods still apply to workers who reached age 62, became disabled, or died before 1979.

Thus, several computation methods are current. In § 404.204, we first describe how we select the method (or methods) applicable to an individual, then we give directions to the proper rules for computing an individual's primary insurance amount.

Post-1978 Method of Finding Primary Insurance Amounts

As explained in §§ 404.210–404.212, the primary insurance amount of a worker who after 1978 reaches age 62, or after 1978 becomes disabled or dies before age 62 is computed under a new method which we call the "average-indexed-monthly-earnings" method. In these rules, we describe how we average a worker's earnings under social security over the period he or she can reasonably be expected to have worked under social security. We also describe how we use a benefit table to find the worker's primary insurance amount.

Pre-1979 Method of Finding Primary Insurance Amounts

As explained in §§ 404.220–404.222, the primary insurance amount of a worker who reached age 62, became disabled, or died before 1979 usually is computed under what we call the "average-monthly-wage" method. In these rules, we describe how we average a worker's earnings under social security over the period he or she can reasonably be expected to have worked under social security. We also describe how we use a benefit table to find the worker's primary insurance amount.

Guaranteed Alternative

Sections 404.230–404.233 contain the rules for putting into effect Congress' intent that people nearing age 62 at the time of enactment of the average-indexed-monthly-earnings method of finding primary insurance amounts should not be seriously disadvantaged under the new method. Under these rules, workers reaching age 62 after 1978 but before 1984 are guaranteed the higher of—

(a) Their primary insurance amount found under the average-indexed-monthly-earnings method; or

(b) Their primary insurance amount found under a modified average-monthly-wage method (including a primary insurance amount found under the "old-start" method described in §§ 404.240–404.242). For purposes of this method, primary insurance amounts are based on the December 1978 benefit table (see Appendix III), but individual benefits are increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effect in or after the year the worker reaches age 62. Earnings after the year the worker reaches age 61 cannot be used in the modified average-monthly-wage method.

The primary insurance amount computed in this way is the worker's "guaranteed alternative". If that primary insurance amount is higher than the worker's primary insurance amount found under the average-indexed-monthly-earnings method, we base the worker's benefits (and those of his or her family) on the guaranteed-alternative primary insurance amount.

Old-Start Primary Insurance Amounts

The law provides a special method for finding the primary insurance amount for a worker whose social security earnings were all or almost all before 1951. We call this method the "old-start" computation, and we explain it in § 404.241. We use this old-start method along with the average-indexed-monthly-earnings method and the average-monthly-wage method, as appropriate, to determine the highest PIA for a worker. As explained in § 404.242, we may use the primary insurance amount computed under the old-start method, with some modifications, as a "guaranteed alternative" for purposes of § 404.230.

Period of Disability—Special Rules

In §§ 404.250–404.252, we describe the special rules we use in computing primary insurance amounts for workers who were disabled (and got social security disability insurance benefits) and whose benefits were later terminated because they medically recovered or because they demonstrated an ability to engage in substantial gainful activity. When, after 1978, these workers die or become entitled to old-age insurance benefits or become re-entitled to disability insurance benefits, the rules we use for finding their primary insurance amounts depend on how long a time passed between the time they last got disability benefits and the time they die, become entitled to old-age insurance benefits, or become re-entitled to disability benefits. In general, these rules specify that if fewer than 12 months pass between the last month of entitlement to disability benefits and the month of death, entitlement to old-age insurance benefits, or reentitlement to disability benefits, the worker's primary insurance amount is at least as high as it was when he or she last got a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effective since the last entitlement to benefits.

In general, if 12 months or more pass between these events, we compute a new primary insurance amount for the worker, although he or she is guaranteed a primary insurance amount at least as high as the previous one. However, when this period was 12 months or longer, the previous primary insurance amount is not increased by any automatic cost-of-living or *ad hoc* increases effective since he or she last got a monthly benefit.

Special Minimum Primary Insurance Amounts

Under an alternative method in the law for computing primary insurance amounts, a person who worked for many years at low wages is assured higher benefits then would otherwise be payable. If this method, described in §§ 404.260–404.261, results in a higher primary insurance amount than any other method for which the worker is eligible, we will use it as the basis for determining benefit amounts.

Cost-of-Living Increases

After a worker's primary insurance amount has been computed, it is automatically increased to keep up with rises in the cost of living. Sections 404.270–404.277 contain the rules for automatic cost-of-living increases in primary insurance amounts, including how the rise in the cost of living is measured, how we determine if an automatic increase is to be made, and other matters related to automatic cost-of-living increases.

Recomputations and Recalculations of Primary Insurance Amounts

Sections 404.280–404.287 contain the rules we use in determining when and how primary insurance amounts may be "recomputed". A recomputation is a new computation of the primary insurance amount to include earnings which could not be used in the first computation (or in an earlier recomputation). These rules show that a recomputation may be used only to increase a primary insurance amount, how we do recomputations automatically, and how a worker and his or her family (or his or her survivors) may request or waive a recomputation.

Section 404.290 contains the rules we use in determining when and how primary insurance amounts may be "recalculated". In a recalculation, we refigure an earlier computation to correct it or to include certain earnings not available earlier. A recalculation differs from a recomputation mainly in that a recalculation may result in either an increase or a decrease in a primary insurance amount, while recomputations never result in a decrease.

Appendices

The six appendices to Subpart C contain figures and formulas that are needed in finding primary insurance amounts. Appendix I contains "average of the total wages" figures, which we use to "index" a worker's earnings for purposes of finding his or her average indexed monthly earnings. Appendix II contains benefit formulas which we apply to a worker's average indexed monthly earnings to find his or her primary insurance amount. Appendix III contains the benefit table we use to find a worker's primary insurance amount from his or her average monthly wage. We use the figures in Appendix IV to find a worker's "years of coverage" for years after 1950 for the purpose of finding his or her special minimum primary insurance amount. Appendix V is a table for computing the special minimum primary insurance amount and the related maximum family benefits. Appendix VI is a table showing the percentage increases in primary insurance amounts since 1978.

The figures in the appendices are by law automatically adjusted each year and the law requires us to announce the changes by timely publication in the **Federal Register**. We always use the latest data from the **Federal Register**, which precedes our periodic updating of the appendices.

Deletion of Rarely Used Material

To simplify this subpart, we are deleting infrequently used material concerning two old-start computation methods, benefit tables, and methods of recomputation and recalculation. In each of these areas, we are retaining the latest and most frequently used material. When necessary to use provisions that were in the deleted material, we will refer instead to the Social Security Act and to our internal operating instructions. These reference sources are available for inspection at any social security office.

The Final Rules

We have made some minor technical corrections and additions to the rules which were published in the June 25, 1980, Notice of Proposed Rulemaking. In addition, we are including the rules on the new disability dropout provisions which were published on December 22, 1980, as an NPRM. We are also including the rules that permit additional dropout years in computing disability benefits for a young worker who had no earnings because he or she was providing the principal care for a child under age 3. We have also updated the appendices to show the 14.3 percent cost-of-living increase that took effect for June 1980, the 11.2 percent increase for June 1981, and other recent data needed to compute primary insurance amounts. Finally, we have made some clarifying changes as a result of comments from the public; these are discussed below.

We will publish in the near future the rules for the minimum benefit and rounding of benefit amounts, as provided in Pub. L. 97–35 and Pub. L. 97–123.

Comments on Notice of Proposed Rulemaking

In the Notices of Proposed Rulemaking, we allowed 60 days for interested persons to submit comments. We received comments from 3 people, including 2 who represent pension-consulting companies. As a result of these comments, we have made the following changes:

1. In § 404.212(c), we have added a statement that the primary insurance amount *plus* any applicable cost-of-living increase cannot be less than the $122 minimum primary insurance amount.

2. In the example in § 404.221, we have made two additions to remove any possibility that elapsed years will be confused with computation base years when deciding which years of earnings we use in the computation.

3. In § 404.261(a)(2), we have modified the second sentence to say that special minimum primary insurance amounts based on "only a few" rather than "less than 20" years of coverage are lower than the regular minimum benefit. The sentence, as written in the Notice of Proposed Rulemaking, was not accurate for all cases.

Regulatory Procedures

Executive Order 12291.—The new disability dropout provision will reduce disability program costs by about $76 million in FY 1982, increasing to a $261 million reduction by FY 1985. The provision for increasing the number of disability dropout years based on child care is expected to increase program costs by $5 million in FY 1982 and by $17 million in FY 1985. The regulations are not considered a major rule under Executive Order 12291 since the savings and costs described above result from statutory amendments which are effective whether or not regulations are issued, and are therefore not a "result" of these regulations.

Paperwork Reduction Act.—There are no new recordkeeping or reporting requirements requiring OMB clearance.

Regulatory Flexibility Act.—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Accordingly, the revision of this subpart is adopted with several editorial and clarifying changes, as set forth below.

(Sections 205, 215, and 1102 of the Social Security Act, as amended; 53 Stat. 1368, as amended, 64 Stat. 506, as amended, 49 Stat. 647; 42 U.S.C. 405, 415, and 1302.)

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security-Disability; 13.803, Social Security-Retirement Insurance; 13.805, Social Security-Survivors Insurance.)

List of Subjects in 20 CFR 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, Survivors and Disability Insurance, Social Security Administration.

Dated: May 17, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: June 24, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Subpart C of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart C—Computing Primary Insurance Amounts

General

Sec.
404.201 Introduction.
404.202 Other regulations related to this subpart.
404.203 Definitions.
404.204 Methods of computing primary insurance amounts—general.

Average-Indexed-Monthly Earnings Method of Computing Primary Insurance Amounts

404.210 Average-indexed-monthly-earnings method.
404.211 Computing your average indexed monthly earnings.
404.212 Computing your primary insurance amount from your average indexed monthly earnings.

Average-Monthly-Wage Method of Computing Primary Insurance Amounts

404.220 Average-monthly-wage method.
404.221 Computing your average monthly wage.
Sec.
404.222 Use of benefit table in finding your primary insurance amount from your average monthly wage.

Guaranteed Alternative for People Reaching Age 62 After 1978 but Before 1984

404.230 Guaranteed alternative.
404.231 Steps in computing your primary insurance amount under the guaranteed alternative—general.
404.232 Computing your average monthly wage.
404.233 Adjustment of your guaranteed alternative when you become entitled after age 62.

Old-Start Method of Computing Primary Insurance Amounts

404.240 Old-start method—general.
404.241 1977 simplified old-start method.
404.242 Use of old-start primary insurance amount as guaranteed alternative.

Special Computation Rules for People Who Had a Period of Disability

404.250 Special computation rules for people who had a period of disability.
404.251 Subsequent entitlement to benefits less than 12 months after entitlement to disability benefits ended.
404.252 Subsequent entitlement to benefits 12 months or more after entitlement to disability benefits ended.

Special Minimum Primary Insurance Amounts

404.260 Special minimum primary insurance amounts.
404.261 Computing your special minimum primary insurance amount.

Cost-of-Living Increases

404.270 Cost-of-living increases.
404.271 When automatic cost-of-living increases apply.
404.272 Use of Consumer Price Index to measure the rise in the cost of living.
404.273 When automatic cost-of-living increases are to be made.
404.274 Measuring the increase in the Consumer Price Index.
404.275 Amount of automatic cost-of-living increase.
404.276 Publication of notice of increase.
404.277 Automatic increases of "frozen" minimum primary insurance amount.

Recomputing Your Primary Insurance Amount

404.280 Recomputations.
404.281 Why your primary insurance amount may be recomputed.
404.282 Effective date of recomputations.
404.283 Recomputation under method other than that used to find your primary insurance amount.
404.284 Recomputations for people who reach age 62, or become disabled, or die before age 62 after 1978.
404.285 Recomputations performed automatically.
404.286 How to request an immediate recomputation.
404.287 Waiver of recomputation.

Recalculations of Primary Insurance Amounts

Sec.
404.290 Recalculations.

Appendices

Appendix I Average of the Total Wages for Years after 1950.
Appendix II Benefit Formulas Used with Average Indexed Monthly Earnings.
Appendix III Benefit Table.
Appendix IV Special Minimum Primary Insurance Amount; Earnings Needed for a Year of Coverage after 1950.
Appendix V Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits.
Appendix VI Percentage of Increases in Primary Insurance Amounts since 1978.

Authority: Secs. 205, 215, and 1102, Social Security Act, as amended; 53 Stat. 1368, as amended; 64 Stat. 506, as amended; 49 Stat. 647; 42 U.S.C. 405, 415 and 1302.

General

§ 404.201 Introduction.

In this subpart we describe how we compute your primary insurance amount, which is the first step in finding your monthly social security benefit amount. Your primary insurance amount is the basic figure we use in finding the monthly benefit actually payable to you and to members of your family. For example, if you retire at age 65 or become disabled, your monthly benefit is equal to your primary insurance amount. In other situations, your benefit does not equal your primary insurance amount. For example, if you become entitled to old-age benefits before you reach age 65, your benefit is less than your primary insurance amount, as described in §§ 404.410–404.413. Benefits payable to members of your family are a specified percentage of your primary insurance amount. (See subpart D.) We explain how we automatically increase your primary insurance amount to keep it up to date with rises in the cost of living. We also explain how and when we recompute your primary insurance amount and how and when we recalculate your primary insurance amount. We have organized this subpart as follows:

(a) In §§ 404.210–404.212, we describe the average-indexed-monthly-earnings method we use for computing primary insurance amounts of workers who after 1978 reach age 62, or become disabled or die before age 62;

(b) In §§ 404.220–404.222, we describe the average-monthly-wage method we use for computing primary insurance amounts of workers who reach age 62, become disabled, or die before 1979;

(c) In §§ 404.230–404.233, we describe the guaranteed alternative method of computing primary insurance amounts

that applies to people who reach age 62 after 1978 but before 1984;

(d) In §§ 404.240–404.242, we describe a method of computing primary insurance amounts (called the old-start method) for people who had all or substantially all their social security earnings before 1951;

(e) In §§ 404.250–404.252, we describe special rules we apply in computing primary insurance amounts of people who had a period of disability at some time in their lives;

(f) In §§ 404.260–404.261, we describe how we compute the special minimum primary insurance amount for long-term, low-paid workers;

(g) In §§ 404.270–404.277, we describe how we automatically adjust primary insurance amounts to take account of rises in the cost of living;

(h) In §§ 404.280–404.287, we describe how and when we recompute primary insurance amounts to take into account additional earnings;

(i) In § 404.290, we describe how and when we recalculate primary insurance amounts; and

(j) Appendices I–VI contain material such as figures and formulas that we use in finding a primary insurance amount under various circumstances.

§ 404.202 Other regulations related to this subpart.

This subpart is related to several others. In subpart B of this part, we describe how you become insured for social security benefits as a result of your work in covered employment. In subpart D, we discuss the different kinds of social security benefits available—old-age and disability benefits for you and benefits for your dependents and survivors—the amount of the benefits, and the requirements you and your family must meet to qualify for them; your work status, your age, the size of your family, and other factors may affect the amount of the benefits for you and your family. Rules relating to deductions, reductions, and nonpayment of benefits we describe in subpart E. In subpart F of this part, we describe what we do when a recalculation or recomputation of your primary insurance amount (as described in this subpart) results in our finding that you and your family have been overpaid or underpaid. In subparts G and H of this part, we tell how to apply for benefits and what evidence is needed to establish entitlement to them. In subpart J of this part, we describe how benefits are paid. Then in subparts I, K, N, and O of this part, we discuss your earnings that are taxable and creditable for social security purposes (and how we keep records of them), and deemed military wage credits which may be used in finding your primary insurance amount.

§ 404.203 Definitions.

(a) *General definitions.* As used in this subpart—

"*Ad hoc* increase in primary insurance amounts" means an increase in primary insurance amounts enacted by the Congress and signed into law by the President.

"Entitled" means that a person has applied for benefits and has proven his or her right to them for a given period of time.

"We," "us," or "our" means the Social Security Administration or the Department of Health and Human Services.

"You" or "your" means the insured worker who has applied for benefits or a deceased insured worker on whose social security earnings record someone else has applied.

(b) *Other definitions.* To make it easier to find them, we have placed other definitions in the sections of this subpart in which they are used.

§ 404.204 Methods of computing primary insurance amounts—general.

(a) *General.* We compute most workers' primary insurance amounts under one of two major methods. There are, in addition, several special methods of computing primary insurance amounts which we apply to some workers. Your primary insurance amount is the highest of all those computed under the methods for which you are eligible.

(b) *Major methods.* (1) If after 1978 you reach age 62, or become disabled or die before age 62, we compute your primary insurance amount under what we call the "average-indexed-monthly-earnings" method, which is described in §§ 404.210–404.212. The earliest of the three dates determines the computation method we use.

(2) If before 1979 you reached age 62, became disabled, or died, we compute your primary insurance amount under what we call the "average-monthly-wage" method, described in §§ 404.220–404.222.

(c) *Special methods.* (1) Your primary insurance amount, computed under any of the special methods for which you are eligible as described in this paragraph, may be substituted for your primary insurance amount computed under either major method described in paragraph (b) of this section.

(2) If you reach age 62 during the period 1979–1983, your primary insurance amount is guaranteed to be the highest of—

(i) The primary insurance amount we compute for you under the average-indexed-monthly-earnings method;

(ii) The primary insurance amount we compute for you under the average-monthly-wage method, as modified by the rules described in §§ 404.230–404.233; or

(iii) The primary insurance amount computed under what we call the "old-start" method; as described in §§ 404.240–404.242.

(3) If you had all or substantially all of your social security earnings before 1951, we will also compute your primary insurance amount under what we call the "old-start" method.

(4) We compute your primary insurance amount under the rules in §§ 404.250–404.252, if—

(i) You were disabled and received social security disability insurance benefits sometime in your life;

(ii) Your disability insurance benefits were terminated because of your recovery or because you engaged in substantial gainful activity; and

(iii) You are, after 1978, re-entitled to disability insurance benefits, or entitled to old-age insurance benefits, or have died.

(5) In some situations, we use what we call a "special minimum" computation, described in §§ 404.260–404.261, to find your primary insurance amount. Computations under this method reflect long-term, low-wage attachment to covered work.

Average-Indexed-Monthly Earnings Method of Computing Primary Insurance Amounts

§ 404.210 Average-indexed-monthly-earnings method.

(a) *Who is eligible for this method.* If after 1978, you reach age 62, or become disabled, or die before age 62, we will compute your primary insurance amount under the average-indexed-monthly-earnings method.

(b) *Steps in computing your primary insurance amount under the average-indexed-monthly-earnings method.* We follow these three major steps in computing your primary insurance amount:

(1) First, we find your "average indexed monthly earnings," as described in § 404.211;

(2) Second, we find the "benefit formula" in effect for the year you reach age 62, or become disabled, or die before age 62, as described in § 404.212; and

(3) Then, we apply that benefit formula to your average indexed monthly earnings to find your primary

insurance amount, as described in § 404.212.

(4) Next, we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that became effective in or after the year you reached age 62, unless you are receiving benefits based on the minimum primary insurance amount, in which case not all the increases may be applied, as described in § 404.277.

§ 404.211 Computing your average indexed monthly earnings.

(a) *General.* In this method, your social security earnings after 1950 are "indexed," as described in paragraph (d) of this section, then averaged over the period of time you can reasonably have been expected to have worked in employment or self-employment covered by social security. (Your earnings before 1951 are not used in finding your average indexed monthly earnings.)

(b) *Which earnings may be used in computing your average indexed monthly earnings.* (1) *Earnings.* In computing your average indexed monthly earnings, we use wages, compensation, self-employment income, and deemed military wage credits (see §§ 404.1340–404.1343) that are creditable to you for social security purposes for years after 1950.

(2) *Computation base years.* We use your earnings in your "computation base years" in finding your average indexed monthly earnings. All years after 1950 up to (but not including) the year you become entitled to old-age or disability insurance benefits, and through the year you die if you had not been entitled to old-age or disability benefits, are computation base years for you. The year you become entitled to benefits and following years may be used as computation base years in a recomputation if their use would result in a higher primary insurance amount. (See §§ 404.280–404.287.) However, years after the year you die may not be used as computation base years even if you have earnings credited to you in those years. Computation base years do not include years wholly within a period of disability unless your primary insurance amount would be higher by using the disability years. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

(c) *Average of the total wages.* Before we compute your average indexed monthly earnings, we must first know the "average of the total wages" of all workers for each year from 1951 until the second year before you become eligible. "Average of the total wages (average wage)" means:

(1) For years after 1977, all remuneration reported as wages on Form W–2 to the Internal Revenue Service for all employees for income tax purposes, divided by the number of wage earners, except that for 1978 and 1979, we will use averages derived from data on wage amounts reported on IRS Forms 1040. The number of wage earners will be derived from the W–2 Forms attached to those Forms 1040. We will adjust those averages to make them comparable to the averages for 1951–1977. For years after 1977, the term includes remuneration for services not covered by social security and remuneration for covered employment in excess of that which is subject to FICA contributions.

(2) For the years 1951 through 1977, four times the amount of average taxable wages that were reported to the Social Security Administration for the first calendar quarter of each year for social security tax purposes. For years prior to 1973, these average wages are determined from a sampling of these reports.

(3) Average wages for 1951–1980 are shown in Appendix I; corresponding figures for 1981 and each later year will be published in the **Federal Register** on or before November 1 of the succeeding year.

(d) *Indexing your earnings.* (1) The first step in indexing your social security earnings is to find the relationship between—

(i) The average wage of all workers in the second year before you reach age 62, or become disabled, or die before age 62 (your "indexing year"); and

(ii) The average wage of all workers in each of your computation base years.

(2) To find the relationship, we divide the average wages for your indexing year, in turn, by the average wages for each year beginning with 1951 and ending with your indexing year. We use the quotients found in these divisions to index your earnings as described in paragraph (d)(3) of this section.

(3) The second step in indexing your social security earnings is to multiply the actual year-by-year dollar amounts of your earnings (up to the maximum amounts creditable, as explained in §§ 404.1047 and 404.1096 of this part) by the quotients found in paragraph (d)(2) of this section for each of those years. We round the results to the nearer penny. (The quotient for your indexing year is 1.0; this means that your earnings in that year are used in their actual dollar amount; any earnings after your indexing year that may be used in computing your average indexed monthly earnings are also used in their actual dollar amount.)

Example. Ms. A reaches age 62 in July 1979. Her year-by-year social security earnings since 1950 are as follows:

Year	Earnings
1951	$3,200
1952	3,400
1953	3,300
1954	3,600
1955	3,700
1956	3,700
1957	4,000
1958	4,200
1959	4,400
1960	4,500
1961	2,800
1962	2,200
1963	0
1964	0
1965	3,700
1966	4,500
1967	5,400
1968	6,200
1969	6,900
1970	7,300
1971	7,500
1972	7,800
1973	8,200
1974	9,000
1975	9,900
1976	11,100
1977	9,900
1978	11,000

Step 1

The first step in indexing Ms. A's earnings is to find the relationship between the general wage level in Ms. A's indexing year (1977) and the general wage level in each of the years 1951–1976. We refer to Apendix I for average wage figures, and perform the following computations:

Year	I. 1977 general wage level	II. Nationwide average of the total wages	III. Column I divided by column II equals relationship
1951	$9,779.44	$2,799.16	3.4937053
1952	9,779.44	2,973.32	3.2890641
1953	9,779.44	3,139.44	3.1150269
1954	9,779.44	3,155.64	3.0990354
1955	9,779.44	3,301.44	2.9621741
1956	9,779.44	3,532.36	2.7685287
1957	9,779.44	3,641.72	2.6853904
1958	9,779.44	3,673.80	2.6619413
1959	9,779.44	3,855.80	2.5362934
1960	9,779.44	4,007.12	2.4405159
1961	9,779.44	4,086.76	2.3929568
1962	9,779.44	4,291.40	2.2788461
1963	9,779.44	4,396.64	2.2242986
1964	9,779.44	4,576.32	2.1369659
1965	9,779.44	4,658.72	2.0991689
1966	9,779.44	4,938.36	1.9803012
1967	9,779.44	5,213.44	1.8758133
1968	9,779.44	5,571.76	1.7551797
1969	9,779.44	5,893.76	1.6592871
1970	9,779.44	6,186.24	1.5808375
1971	9,779.44	6,497.08	1.5052054
1972	9,779.44	7,133.80	1.3708599
1973	9,779.44	7,580.16	1.2901364
1974	9,779.44	8,030.76	1.2177478
1975	9,779.44	8,630.92	1.1330704
1976	9,779.44	9,226.48	1.0599318
1977	9,779.44	9,779.44	1.0000000

Step 2

After we have found these indexing quotients, we multiply Ms. A's actual year-by-year earnings by them to find her indexed earnings, as shown below:

Year	I. Actual earnings	II. Indexing quotient	III. Column I multiplied by column II equals indexed earnings
1951	$3,200	3.4937053	$11,179.86
1952	3,400	3.2890641	11,182.82
1953	3,300	3.1150269	10,279.59
1954	3,600	3.0990354	11,156.53
1955	3,700	2.9621741	10,960.04
1956	3,700	2.7685287	10,243.56
1957	4,000	2.6853904	10,741.56
1958	4,200	2.6619413	11,180.15
1959	4,400	2.5362934	11,159.69
1960	4,500	2.4405159	10,982.32
1961	2,800	2.3929568	6,700.28
1962	2,200	2.2788461	5,013.46
1963	0	2.2242986	0
1964	0	2.1369659	0
1965	3,700	2.0991689	7,766.92
1966	4,500	1.9803012	8,911.36
1967	5,400	1.8758133	10,129.39
1968	6,200	1.7551797	10,882.11
1969	6,900	1.6592871	11,449.08
1970	7,300	1.5808375	11,540.11
1971	7,500	1.5052054	11,289.04
1972	7,800	1.3708599	10,692.71
1973	8,200	1.2901364	10,579.12
1974	9,000	1.2177478	10,959.73
1975	9,900	1.1330704	11,217.40
1976	11,100	1.0599318	11,765.24
1977	9,900	1.0000000	9,900.00
1978	11,000	0	11,000.00

(e) *Number of years to be considered in finding your average indexed monthly earnings.* To find the number of years to be used in computing your average indexed monthly earnings—

(1) We count the years beginning with 1951, or (if later) the year you reach age 22, and ending with the earliest of the year before you reach age 62, become disabled, or die. Years wholly or partially within a period of disability (as defined in § 1501(b) of subpart P of this part) are not counted unless your primary insurance amount would be higher. In that case, we count all the years during the period of disability, even though you had no earnings in some of those years. These are your "elapsed years." From your elapsed years, we then subtract up to 5 years, the exact number depending on the kind of benefits to which you are entitled. You cannot, under this procedure, have fewer than 2 benefit computation years.

(2) For computing old-age insurance benefits and survivors insurance benefits, we subtract 5 from the number of your elapsed years. See paragraphs (e) (3) and (4) of this section for the dropout as applied to disability benefits. This is the number of your "benefit computation years;" we use the same number of your computation base years (see paragraph (b)(2) of this section) in computing your average indexed monthly earnings. For benefit computation years, we use the years with the highest amounts of earnings after indexing. They may include earnings from years that were not indexed, and must include years of no earnings. if you do not have sufficient years with earnings. You cannot have fewer than 2 benefit computation years.

(3) Where the worker is first entitled to disability insurance benefits (DIB) after June 1980, there is an exception to the usual 5 year dropout provision explained in paragraph (e)(2) of this section. (For entitlement before July 1980, we use the usual dropout.) We call this exception the "disability dropout." We divide the elapsed years by 5 and disregard any fraction. The result, which may not exceed 5, is the number of dropout years. We subtract that number from the number of elapsed years to get the number of benefit computation years, which may not be fewer than 2. After the worker dies, the disability dropout no longer applies and we use the basic 5 dropout years to compute benefits for survivors. We continue to apply the disability dropout when a person becomes entitled to old-age insurance benefits (OAIB), unless his or her entitlement to DIB ended at least 12 months before he or she became eligible for OAIB. For first DIB entitlement before July 1980, we use the rule in paragraph (e)(2) of this section.

(4) For benefits payable after June 1981, the disability dropout might be increased by the "child care dropout." If the number of disability dropout years is fewer than 3, we will drop out a benefit computation year for each benefit computation year that the worker meets the child care requirement and had no earnings, until the total of all dropout years is 3. The child care requirement for any year is that the worker must have been living with his or her child (or his or her spouse's child) substantially throughout any part of any calendar year that the child was alive and under age 3. In actual practice, no more than 2 child care years may be dropped, because of the combined effect of the number of elapsed years, 1-for-5 dropout years (if any), and the computation years required for the computation.

Example. Mrs. M., born August 4, 1953, became entitled to disability insurance benefits (DIB) beginning in July 1980 based on a disability which began January 15, 1980. In computing the DIB, we determined that the elapsed years are 1975 through 1979, the number of dropout years is 1 (5 elapsed years divided by 5), and the number of computation years is 4. We use Mrs. M's earnings in the years 1976 through 1979.

Mrs. M lived with her child, who was born in 1972, in all months of 1973 and 1974 and did not have any earnings in those years. We, therefore, recompute Mrs. M's DIB beginning with July 1, 1981 to give her the advantage of the child care dropout. To do this, we reduce the 4 computation years by 2 child care years to get 2 computation years.

(i) "Living with" means that you and the child ordinarily live in the same home and you exercise, or have the right to exercise, parental control. See § 404.366(c) for a further explanation.

(ii) "Substantially throughout any part of any calendar year" means that any period you were not living with the child during a calendar year did not exceed 3 months. If the child was either born or attained age 3 during the calendar year, the period of absence in the year cannot have exceeded the smaller period of 3 months, or one-half the time after the child's birth or before the child attained age 3.

(iii) "Earnings" means wages for services rendered and net earnings from self-employment minus any net loss for a taxable year. See § 404.429 for a further explanation.

(f) *Your average indexed monthly earnings.* After we have indexed your earnings and found your benefit computation years, we compute your average indexed monthly earnings by—

(1) Totalling your indexed earnings in your benefit computation years;

(2) Dividing the total by the number of months in your benefit computation years; and

(3) Rounding the quotient to the next lower whole dollar. if not already a multiple of $1.

Example. From the example in paragraph (d) of this section, we see that Ms. A reaches age 62 in 1979. Her elapsed years are 1951–1978 (28 years). We subtract 5 from her 28 elapsed years to find that we must use 23 benefit computation years. This means that we will use her 23 highest computation base years to find her average indexed monthly earnings. We exclude the 5 years 1961–1965 and total her indexed earnings for the remaining years, i.e., the benefit computation years (including her unindexed earnings in 1977 and 1978) and get $249,381.41. We then divide that amount by the 276 months in her 23 benefit computation years and find her average indexed monthly earnings to be $903.56, which is rounded down to $903.

§ 404.212 Computing your primary insurance amount from your average indexed monthly earnings.

(a) *General.* We compute your primary insurance amount under the average-indexed-monthly-earnings method by applying a "benefit formula" to your average indexed monthly earnings.

(b) *Benefit formula.* (1) We use the applicable benefit formula in Appendix II for the year you reach age 62, become disabled, or die whichever occurs first.

(2) The dollar amounts in the benefit formula are automatically increased each year for persons who attain age 62, or who become disabled or die before age 62 in that year, by the same percentage as the increase in the average of the total wages (see Appendix I).

(3) We will publish benefit formulas for years after 1979 in the **Federal Register** at the same time we publish the average of the total wage figures. We begin to use a new benefit formula as soon as it is applicable, even before we periodically update Appendix II.

(c) *Computing your primary insurance amount from the benefit formula.* We compute your primary insurance amount by applying the benefit formula to your average indexed monthly earnings, adding the results for each step of the formula, and rounding the total amount to the next higher multiple of $0.10 if it is not a multiple of $0.10. (However, your primary insurance amount under this method, plus any applicable cost-of-living increase to which you are entitled (see §§ 404.270–404.277), cannot be less than $122, which is the "minimum primary insurance amount.")

Example. As we computed in paragraphs (d) and (f) of § 404.211, Ms. A's average indexed monthly earnings (AIME) are $903. We find her primary insurance amount by first applying the 1979 benefit formula (see Appendix II) to her AIME as follows: 90 percent of the first $180 in her AIME ($162), plus 32 percent of the remaining $723 of her AIME ($231.36)=$393.36. This amount is then rounded to $393.40.

As we explain in § 404.271(d), we then apply the cost-of-living benefit increase (9.9 percent, effective June 1979) to $393.40 to find Ms. A's primary insurance amount of $432.40. We increase that amount by the 14.3 percent cost-of-living increase effective June 1980, and get $494.30, and by the 11.2 percent increase effective June 1981 to get $553.70. (However, we may compute under another method which will result in a higher primary insurance amount. See the *Example* in § 404.233(b).)

(d) *Adjustment of your primary insurance amount when entitlement to benefits occurs in a year after attainment of age 62, disability or death.* If you (or your survivors) do not become entitled to benefits in the same year you reach age 62, become disabled, or die before age 62, we compute your primary insurance amount by—

(1) Computing your average indexed monthly earnings as described in § 404.211;

(2) Applying to your average indexed monthly earnings the benefit formula for the year in which you reach age 62, or become disabled, or die before age 62; and

(3) Applying to the primary insurance amount all automatic cost-of-living and *ad hoc* increases in primary insurance amounts that have gone into effect in or after the year you reached age 62, became disabled, or died before age 62. (See § 404.277 for special rules on minimum benefits, and Appendix VI for a table of percentage increases in primary insurance amounts since December 1978. Increases in primary insurance amounts are published in the **Federal Register** and we periodically update Appendix VI.)

Average-Monthly-Wage Method of Computing Primary Insurance Amounts

§ 404.220 Average-monthly-wage method.

(a) *Who is eligible for this method.* You must before 1979, reach age 62, become disabled or die to be eligible for us to compute your primary insurance amount under the average-monthly-wage method. Also, as explained in § 404.230, if you reach age 62 after 1978 but before 1984, you are eligible to have your primary insurance amount computed under a modified average-monthly-wage method if it is to your advantage. Being eligible for either the average-monthly-wage method or the modified average-monthly-wage method does not preclude your eligibility under the "old-start" method described in §§ 404.240–404.242.

(b) *Steps in computing your primary insurance amount under the average-monthly-wage method.* We follow these three major steps in computing your primary insurance amount under the average-monthly-wage method:

(1) First, we find your average monthly wage, as described in § 404.221;

(2) Second, we look at the "benefit table" in Appendix III; and

(3) Then we find your primary insurance amount in the benefit table, as described in § 404.222.

(4) Finally, we apply any automatic cost-of-living or *ad hoc* increases that became effective in or after the year you reached age 62, or became disabled, or died before age 62, as explained in §§ 404.270–404.277.

§ 404.221 Computing your average monthly wage.

(a) *General.* Under the average-monthly-wage method, your social security earnings are averaged over the length of time you can reasonably have been expected to have worked under social security after 1950 (or after you reached age 21, if later).

(b) *Which of your earnings may be used in computing your average monthly wage.* (1) In computing your average monthly wage, we consider all the wages, compensation, self-employment income, and deemed military wage credits that are creditable to you for social security purposes. (The maximum amounts creditable are explained in §§ 404.1047 and 404.1096 of this part.)

(2) We use your earnings in your "computation base years" in computing your average monthly wage. All years after 1950 up to (but not including) the year you become entitled to old-age or disability insurance benefits, or through the year you die if you had not been entitled to old-age or disability benefits, are computation base years for you. Years after the year you die may not be used as computation base years even if you have earnings credited to you in them. However, years beginning with the year you become entitled to benefits may be used for benefits beginning with the following year if using them would give you a higher primary insurance amount. Years wholly within a period of disability are not computation base years unless your primary insurance amount would be higher if they were. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

(c) *Number of years to be considered in computing your average monthly wage.* To find the number of years to be used in computing your average monthly wage—

(1) We count the years beginning with 1951 or (if later) the year you reached age 22 and ending with the year before you reached age 62, or became disabled, or died before age 62. Any part of a year—or years—in which you were disabled, as defined in § 404.1505, is not counted unless doing so would give you a higher average monthly wage. In that case, we count all the years during the period of disability, even if you had no earnings in some of those years. These are your "elapsed years." (If you are a male and you reached age 62 before 1975, see paragraph (c)(2) of this section for the rules on finding your elapsed years.)

(2) If you are a male and you reached age 62 in—

(i) 1972 or earlier, we count the years beginning with 1951 and ending with the year before you reached age 65, or became disabled or died before age 65 to find your elapsed years;

(ii) 1973, we count the years beginning with 1951 and ending with the year before you reached age 64, or became disabled or died before age 64 to find your elapsed years; or

(iii) 1974, we count the years beginning with 1951 and ending with the year before you reached age 63, became disabled, or died before age 63 to find your elapsed years.

(3) Then we subtract 5 from the number of your elapsed years. This is the number of your "benefit computation years"; we use the same number of your computation base years in computing your average monthly wage. For benefit computation years, we use the years with the highest amounts of earnings, but they may include years of no earnings. You cannot have fewer than 2 benefit computation years.

(d) *Your average monthly wage.* After we find your benefit computation years, we compute your average monthly wage by—

(1) Totalling your creditable earnings in your benefit computation years;

(2) Dividing the total by the number of months in your benefit computation years; and

(3) Rounding the quotient to the next lower whole dollar if not already a multiple of $1.

Example. Mr. B reaches age 62 and becomes entitled to old-age insurance benefits in August 1978. He had no social security earnings before 1951 and his year-by-year social security earnings after 1950 are as follows:

1951	$2,700
1952	2,700
1953	3,400
1954	3,100
1955	4,000
1956	4,100
1957	4,000
1958	4,200
1959	4,800
1960	4,800
1961	4,800
1962	4,800
1963	4,800
1964	1,500
1965	0
1966	0
1967	0
1968	3,100
1969	5,200
1970	7,100
1971	7,800
1972	8,600
1973	8,900
1974	9,700
1975	10,100
1976	10,800
1977	11,900

We first find Mr. B's elapsed years, which are the 27 years 1951–1977. We subtract 5 from his 27 elapsed years to find that we must use 22 benefit computation years in computing his average monthly wage. His computation base years are 1951–1977, which are the years after 1950 and prior to the year he became entitled. This means that we will use his 22 computation base years with the highest earnings to compute his average monthly wage. Thus, we exclude the years 1964–1967 and 1951.

We total his earnings in his benefit computation years and get $132,700. We then divide that amount by the 264 months in his 22 benefit computation years and find his average monthly wage to be $502.65, which is rounded down to $502.

(e) *"Deemed" average monthly wage for certain deceased veterans of World War II.* Certain deceased veterans of World War II are "deemed" to have an average monthly wage of $160 (see §§ 404.1340–404.1343 of this part) unless their actual average monthly wage, as found in the method described in paragraphs (a)–(d) of this section is higher.

§ 404.222 Use of benefit table in finding your primary insurance amount from your average monthly wage.

(a) *General.* We find your primary insurance amount under the average-monthly-wage method in the benefit table in Appendix III.

(b) *Finding your primary insurance amount from benefit table.* We find your average monthly wage in column III of the table. Your primary insurance amount appears on the same line in column IV (column II if you are entitled to benefits for any of the 12 months preceding the effective month in column IV).

Example. In the example in § 404.221(d), we computed Mr. B's average monthly wage to be $502. We refer to the December 1978 benefit table in Appendix III. Then we find his average monthly wage in column III of the table. Reading across, his primary insurance amount is on the same line in column IV and is $390.50. A 9.9 percent automatic cost-of-living benefit increase was effective for June 1979, increasing Mr. B's primary insurance amount to $429.20, as explained in §§ 404.270–404.277. Then, we increase the $429.20 by the 14.3 percent June 1980 cost-of-living benefit increase and get $490.60, and by the 11.2 percent June 1981 increase to get $549.50.

Guaranteed Alternative for People Reaching Age 62 After 1978 but Before 1984

§ 404.230 Guaranteed alternative.

(a) *General.* If you reach age 62 after 1978 but before 1984, we compute your primary insurance amount under a modified average-monthly-wage method as a "guaranteed alternative" to your primary insurance amount computed under the average-indexed-monthly-earnings method. We also compute your primary insurance amount under the old-start method (§§ 404.240–404.242) and under the special rules for a person who had a period of disability (§§ 404.250–404.252), if you are eligible. In §§ 404.231–404.233, we explain the average-monthly-wage method as the alternative to the average-indexed-monthly-earnings method.

(b) *Restrictions.* (1) To qualify for this guaranteed-alternative computation, you must have some creditable earnings before 1979.

(2) You or your survivors do not qualify for a guaranteed-alternative computation if you were eligible (you attained age 62, became disabled, or died before age 62) for social security benefits based on your own earnings at any time before 1979 unless—

(i) Those benefits were disability insurance benefits which were terminated because you recovered from your disability or you engaged in substantial gainful activity; and

(ii) You spent at least 12 months without being eligible for disability benefits again.

(3) This guaranteed alternative method applies only to old-age insurance benefits and to survivor benefits where the deceased worker reached the month of his or her 62nd birthday after 1978 but before 1984 and died after reaching age 62.

§ 404.231 Steps in computing your primary insurance amount under the guaranteed alternative—general.

If you reach age 62 after 1978 but before 1984, we follow three major steps in finding your guaranteed alternative:

(a) First, we compute your average monthly wage, as described in § 404.232;

(b) Second, we find the primary insurance amount that corresponds to your average monthly wage in the benefit table in Appendix III.

(c) Then we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that have become effective in or after the year you reached age 62.

§ 404.232 Computing your average monthly wage under the guaranteed alternative.

(a) *General.* With the exception described in paragraph (b) of this section, we follow the rules in § 404.221 to compute your average monthly wage.

(b) *Exception.* We do not use any year after the year you reach age 61 as a computation base year in computing your average monthly wage for purposes of the guaranteed alternative.

§ 404.233 Adjustment of your guaranteed alternative when you become entitled after age 62.

(a) If you do not become entitled to benefits at the time you reach age 62, we adjust the guaranteed alternative computed for you under § 404.232 as described in paragraph (b) of this section.

(b) To the primary insurance amount computed under the guaranteed alternative, we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that go into effect in the year you reach age 62 and

in years up through the year you become entitled to benefits. (See Appendix VI for a list of the percentage increases in primary insurance amounts since December 1978.)

Example

Mr. C reaches age 62 in January 1981 and becomes entitled to old-age insurance benefits in April 1981. He had no social security earnings before 1951 and his year-by-year social security earnings after 1950 are as follows:

1951	$3,600
1952	3,600
1953	3,600
1954	3,600
1955	4,200
1956	4,200
1957	4,200
1958	4,200
1959	4,800
1960	4,800
1961	4,800
1962	4,800
1963	4,800
1964	4,800
1965	4,800
1966	6,600
1967	6,600
1968	7,800
1969	7,800
1970	7,800
1971	7,800
1972	9,000
1973	10,800
1974	13,200
1975	14,100
1976	15,300
1977	16,500
1978	17,700
1979	22,900
1980	25,900
1981	29,700

Mr. C's elapsed years are the 30 years 1951 through 1980. We subtract 5 from his 30 elapsed years to find that we must use 25 benefit computation years in computing his average monthly wage. His computation base years are 1951 through 1980 which are years after 1950 up to the year he reached age 62. We will use his 25 computation base years with the highest earnings to compute his average monthly wage. Thus, we exclude the years 1951–1955. The year 1981 is not a base year for this computation.

We total his earnings in his benefit computation years and get $236,000. We then divide by the 300 months in his 25 benefit computation years, and find his average monthly wage to be $786.66 which is rounded down to $786.

The primary insurance amount in the benefit table in Appendix III that corresponds to Mr. C's average monthly wage is $521.70. The 9.9 percent and 14.3 percent cost of living increase for 1979 and 1980, respectively, are not applicable because Mr. C reached age 62 in 1981.

The average indexed monthly earnings method described in §§ 404.210–404.212 considers all of the earnings after 1950, including 1981 earnings which, in Mr. C's case cannot be used in the guaranteed alternative method. Mr. C's primary insurance amount under the average indexed earnings method is $548.40. Therefore, his benefit is based upon the $548.40 primary insurance amount. As in the guaranteed alternative method, Mr. C is not entitled to the cost of living increases for years before the year he reaches age 62.

"Old-Start" Method of Computing Primary Insurance Amounts

§ 404.240 Old-start method—general.

If you had all or substantially all your social security earnings before 1951, your primary insurance amount computed under the "1977 simplified old-start" method may be higher than any other primary insurance amount computed for you under any other method for which you are eligible. As explained in § 404.242, if you reach age 62 after 1978, your primary insurance amount computed under the old-start method is used, for purposes of the guaranteed alternative described in § 404.230, if the old-start primary insurance amount is higher than the one found under the average-monthly-wage method.

§ 404.241 1977 simplified old-start method.

(a) *Who is qualified.* To qualify for the old-start computation, you must meet the following conditions:

(1) Have one "quarter of coverage" (see § 404.101 of this part) before 1951;

(2) Have attained age 21 after 1936 and before 1950, *or* attained age 22 after 1950 and earned fewer than 6 quarters of coverage after 1950;

(3) Have not had a period of disability which began before 1951, unless it can be disregarded, as explained in § 404.320 of this part; and

(4) Have attained age 62, became disabled, or died, after April 1977.

(b) *Steps in old-start computation.* (1) First, we allocate your earnings during the period 1937–1950 as described in paragraph (c) of this section.

(2) Next, we compute your average monthly wage, as described in paragraph (d) of this section.

(3) Next, we apply the old-start formula to your average monthly wage, as described in paragraph (e)(1) of this section.

(4) Next, we apply certain increments to the amount computed in step (3), as described in paragraph (e)(2) of this section.

(5) Next, we find your primary insurance amount in the benefit table in Appendix III, as described in paragraph (f)(1) of this section.

(6) Then, we apply automatic cost-of-living or *ad hoc* increases in primary insurance amounts to the primary insurance amount found in step (5), as described in paragraph (f)(2) of this section.

(c) *Finding your computation base years under the old-start method.* (1) Instead of using your actual year-by-year earnings before 1951, we find your computation base years for 1937–1950 (and the amount of earnings for each of them) by allocating your total 1937–1950 earnings among the years before 1951 under the following procedure:

(i) If you reached age 21 before 1950 and your total 1937–1950 earnings *are not* more than $3,000 times the number of years after the year you reached age 20 and before 1951 (a maximum of 14 years), we allocate your earnings equally among those years, and those years are your computation base years before 1951.

(ii) If you reached age 21 before 1950 and your total 1937–1950 earnings *are* more than $3,000 times the number of years after the year you reached age 20 and before 1951, we allocate your earnings at the rate of $3,000 per year for each year after you reached age 20 and before 1951 up to a maximum of 14 years. We credit any remainder in reverse order to years before age 21 in $3,000 increments and any amount left over of less than $3,000 to the year before the earliest year to which we credited $3,000. No more than $42,000 may be credited in this way and to no more than 14 years. Those years are your computation base years before 1951.

(iii) If you reached age 21 in 1950 or later and your total pre-1951 earnings are $3,000 or less, we credit the total to the year you reached age 20 and that year is your pre-1951 computation base year.

(iv) If you reached age 21 in 1950 or later and your total pre-1951 earnings are more than $3,000, we credit $3,000 to the year you reached age 20 and credit the remainder to earlier years (or year) in blocks of $3,000 in reverse order. We credit any remainder of less than $3,000 to the year before the earliest year to which we had credited $3,000. No more than $42,000 may be credited in this way and to no more than 14 years. Those years are your computation base years before 1951.

(2)(i) All years after 1950 up to (but not including) the year you become entitled to old-age insurance or disability insurance benefits (or through the year you die if you had not become entitled to old-age or disability benefits) are also computation base years for you.

(ii) Years wholly within a period of disability are not computation base years unless your primary insurance amount would be higher if they were. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

Example. Ms. D reaches age 62 in June 1979. Her total 1937–1950 social security earnings are $40,000 and she had social security earnings of $7,100 in 1976 and $6,300 in 1977. Since she reaches age 62 after 1978, we first compute her primary insurance amount under the average-indexed-monthly-earnings method (§§ 404.210–404.212). As of June 1981, it is $170.50, which is the minimum primary insurance amount applicable, because her average indexed monthly earnings of $50 would yield only $56.50 under the benefit formula. Ms. D reached age 62 after 1978 but before 1984 and her guaranteed alternative under the average-monthly-wage method as of June 1981 is $170.30, which is the minimum primary insurance amount based on average monthly wages of $48. (These amounts include the 9.9, the 14.3, and the 11.2 percent cost-of-living increases effective June 1979, June 1980, and June 1981 respectively.)

Ms. D is also eligible for the old-start method. We first allocate $3,000 of her 1937–1950 earnings to each of her 13 computation base years starting with the year she reached age 21 (1938) and ending with 1950. The remaining $1,000 is credited to the year she reached age 20. Ms. D, then, has 42 computation base years (14 before 1951 and 28 after 1950).

(d) *Computing your average monthly wage under the old-start method.* (1) First, we count your elapsed years, which are the years beginning with 1937 (or the year you reach 22, if later) and ending with the year before you reach age 62, or become disabled or die before age 62. (See § 404.211(e)(1) for the rule on how we treat years wholly or partially within a period of disability.)

(2) Next, we subtract 5 from the number of your elapsed years, and this is the number of computation years we must use. We then choose this number of your computation base years in which you had the highest earnings. These years are your benefit computation years. You must have at least 2 benefit computation years.

(3) Then we compute your average monthly wage by dividing your total creditable earnings in your benefit computation years by the number of months in these years and rounding the quotient to the next lower dollar if not already a multiple of $1.

(e) *Old-start computation formula.* We use the following formula to compute your primary insurance benefit, which we will convert to your primary insurance amount:

(1) We take 40 percent of the first $50 of your average monthly wage, plus 10 percent of the next $200 of your average monthly wage up to a total average monthly wage of $250. (We do not use more than $250 of your average monthly wage.)

(2) We increase the amount found in paragraph (e)(1) of this section by 1 percent for each $1,650 in your pre-1951 earnings, disregarding any remainder less than $1,650. We always increase the amount by at least 4 of these 1 percent increments but may not increase it by more than 14 of them.

(f) *Finding your primary insurance amount under the old-start method.* (1) In Column I of the benefit table in Appendix III we locate the amount (the primary insurance benefit) computed in paragraph (e) of this section and find the corresponding primary insurance amount on the same line in Column IV of the table.

(2) We increase that amount by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effective since the beginning of the year in which you reached age 62, or became disabled or died before age 62. (See §§ 404.270–404.277.)

Example. From the example in paragraph (c)(2) of this section, we see that Ms. D's elapsed years total 40 (number of years at ages 22 to 61, both inclusive). Her benefit computation years, therefore, must total 35. Since she has only 16 years of actual earnings, we must include 19 years of zero earnings in this old-start computation to reach the required 35 benefit computation years.

We next divide her total social security earnings ($53,400) by the 420 months in her benefit computation years and find her average monthly wage to be $127.

We apply the old-start computation formula to Ms. D's average monthly wage as follows: 40 percent of the first $50 of her average monthly wage ($20.00), plus 10 percent of the remaining $77 of her average monthly wage ($7.70), for a total of $27.70.

We then apply 14 1-percent increments to that amount, increasing it by $3.88 to $31.58. We find $31.58 in Column I of the December 1978 benefit table in Appendix III and find her primary insurance amount of $195.90 on the same line in Column IV. We apply the 9.9 percent automatic cost-of-living increase effective for June 1979 to $195.90 and get an old-start primary insurance amount of $215.30 which we then increase to $246.10 to reflect the 14.3 percent cost-of-living increase effective for June 1980, and to $273.70 to reflect the June 1981 increase. Since that primary insurance amount is higher than the $153.10 primary insurance amount computed under the average-monthly-wage method and the $153.30 primary insurance amount computed under the average-indexed-monthly-earnings method, we base Ms. D's benefits (and those of her family) on $215.30 (plus later cost-of-living increases), which is the highest primary insurance amount.

§ 404.242 Use of old-start primary insurance amount as guaranteed alternative.

If your primary insurance amount as computed under the old-start method is higher than your primary insurance amount computed under the average-monthly-wage method, your old-start primary insurance amount will serve as the guaranteed alternative to your primary insurance amount computed under the average-indexed-monthly-earnings method, as described in § 404.230. However, earnings that you have in or after the year you reach age 62, or become disabled or die before age 62 are not used in an old-start computation in this situation.

Special Computation Rules for People Who Had a Period of Disability

§ 404.250 Special computation rules for people who had a period of disability.

If you were disabled at some time in your life, received disability insurance benefits, and those benefits were terminated because you recovered from your disability or because you engaged in substantial gainful activity, special rules apply in computing your primary insurance amount when you become eligible after 1978 for old-age insurance benefits or if you become re-entitled to disability insurance benefits or die. (For purposes of §§ 404.250–404.252, we use the term "second entitlement" to refer to this situation.) There are two sets of rules:

(a) *Second entitlement within 12 months.* If 12 months or fewer pass between the last month for which you received a disability insurance benefit and your second entitlement, see the rules in § 404.251; and

(b) *Second entitlement after more than 12 months.* If more than 12 months pass between the last month for which you received a disability insurance benefit and your second entitlement, see the rules in § 404.252.

§ 404.251 Subsequent entitlement to benefits within 12 months after entitlement to disability benefits ended.

(a) *Disability before 1979; second entitlement after 1978.* In this situation, we compute your second-entitlement primary insurance amount by selecting the highest of the following:

(1) The primary insurance amount to which you were entitled when you last received a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that took effect since then;

(2) The primary insurance amount resulting from a recomputation of your

primary insurance amount, if one is possible; or

(3) The primary insurance amount computed for you as of the time of your second entitlement under any method for which you are qualified at that time, including the average-indexed-monthly-earnings method if the previous period of disability is disregarded.

(b) *Disability and second entitlement after 1978.* In this situation, we compute your second-entitlement primary insurance amount by selecting the highest of the following:

(1) The primary insurance amount to which you were entitled when you last received a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amount that took effect since then;

(2) The primary insurance amount resulting from a recomputation of your primary insurance amount, if one is possible (this recomputation may be under the average-indexed-monthly-earnings method only); or

(3) The primary insurance amount computed for you as of the time of your second entitlement under any method (including an old-start method) for which you are qualifed at that time.

§ 404.252 Subsequent entitlement to benefits more than 12 months after entitlement to disability benefits ended.

In this situation, we compute your second-entitlement primary insurance amount by selecting the higher of the following:

(a) *New primary insurance amount.* The primary insurance amount computed as of the time of your second entitlement under any of the computation methods for which you qualify at the time of your second entitlement; or

(b) *Previous primary insurance amount.* The primary insurance amount to which you were entitled in the last month for which you were entitled to a disability insurance benefit.

Special Minimum Primary Insurance Amounts

§ 404.260 Special minimum primary insurance amounts.

Regardless of the method we use to compute your primary insurance amount, if the special minimum primary insurance amount described in § 404.261 is higher, then your benefits (and those of your dependents or survivors) will be based on the special minimum primary insurance amount. Special minimum primary insurance amounts are not based on a worker's average earnings, as are primary insurance amounts computed under other methods. Rather, the special minimum primary insurance amount is designed to provide higher benefits to people who worked for long periods in low-paid jobs covered by social security.

§ 404.261 Computing your special minimum primary insurance amount.

(a) *Years of coverage.* (1) The first step in computing your special minimum primary insurance amount is to find the number of your years of coverage, which is the sum of—

(i) The quotient found by dividing your total creditable social security earnings during the period 1937–1950 by $900, disregarding any fractional remainder; plus

(ii) The number of your computation base years after 1950 in which your social security earnings were at least the amounts shown in Appendix IV. ("Computation base years" mean the same here as in other computation methods discussed in this subpart.)

(2) You must have at least 11 years of coverage to qualify for a special minimum primary insurance amount computation. However, special minimum primary insurance amounts based on more than 10 years of coverage are usually lower than the regular minimum benefit, which is $170.30 beginning in June 1981. In these situations we base your benefits on the higher, regular primary insurance amount.

(b) *Computing your special minimum primary insurance amount.* (1) First, we subtract 10 from your years of coverage and multiply the remainder (at least 1 and no more than 20) by $11.50;

(2) Then we increase the amount found in paragraph (b)(1) of this section by any automatic cost-of-living or *ad hoc* increases that have become effective since December 1978 to find your special minimum primary insurance amount. See Appendix V for the applicable table, which includes the 9.9 percent cost-of-living increase that became effective June 1979, the 14.3 percent increase that became effective June 1980, and the 11.2 percent increase that became effective June 1981.

Example. Ms. F, who attained age 62 in January 1979, had $10,000 in total social security earnings before 1951 and her post-1950 earnings are as follows:

1951	$1,100
1952	950
1953	0
1954	1,000
1955	1,100
1956	1,200
1957	0
1958	1,300
1959	0
1960	1,300
1961	0
1962	1,400
1963	1,300
1964	0
1965	500
1966	700
1967	650
1968	900
1969	1,950
1970	2,100
1971	2,000
1972	1,500
1973	2,700
1974	2,100
1975	2,600
1976	3,850
1977	4,150
1978	0

Her primary insurance amount under the average-indexed-monthly-earnings method as of June 1981 is $240.40 (based on average indexed monthly earnings of $229). Her guaranteed-alternative primary insurance amount under the average-monthly-wage method as of June 1981 is $255.80 (based on average monthly wages of $131).

However, Ms. F has enough earnings before 1951 to allow her 11 years of coverage before 1951 ($10,000÷$900=11, plus a remainder, which we drop). She has sufficient earnings in 1951–52, 1954–56, 1958, 1960, 1962–63, 1969–71, 1973, and 1976–77 to have a year of coverage for each of those years. She thus has 15 years of coverage after 1950 and a total of 26 years of coverage. We subtract 10 from her years of coverage, multiply the remainder (16) by $11.50 and get $184.00. We then apply the June 1979, June 1980, and June 1981 automatic cost-of-living increases (9.9 percent, 14.3 percent, and 11.2 percent, respectively) to that amount to find her special minimum primary insurance amount of $202.30 effective June 1979, $231.30 effective June 1980, and $257.30 effective June 1981. (See Appendices V and VI.) Since her special minimum primary insurance amount is higher than the primary insurance amounts computed for her under the other methods described in this subpart for which she is eligible, her benefits (and those of her family) are based on the special minimum primary insurance amount.

Cost-of-Living Increases

§ 404.270 Cost-of-living increases.

Your primary insurance amount may be automatically increased each June so it keeps up with rises in the cost of living. These automatic increases also apply to other benefit amounts, as described in § 404.271.

§ 404.271 When automatic cost-of-living increases apply.

Besides increases in the primary insurance amounts of current

beneficiaries, automatic cost-of-living increases also apply to—

(a) The benefits of certain uninsured people age 72 and older (see § 404.374);

(b) The special minimum primary insurance amounts (described in §§ 404.260–404.261) of current and future beneficiaries;

(c) The primary insurance amounts of people who after 1978 become eligible for benefits or die before becoming eligible (beginning with June of the year they become eligible or die), although certain limitations are placed on the automatic adjustment of the frozen minimum primary insurance amount (as described in § 404.277); and

(d) The "maximum family benefit amounts" in Column V of the benefit table in Appendix III.

§ 404.272 Use of Consumer Price Index to measure the rise in the cost of living.

We use the revised Consumer Price Index (CPI) for urban wage earners and clerical workers, published by the Department of Labor, to measure rises in the cost of living for annual automatic-increase purposes.

§ 404.273 When automatic cost-of-living increases are to be made.

We make automatic cost-of-living increases when the CPI rises by 3 percent or more over a specified measuring period (see the rules in § 404.274).

§ 404.274 Measuring the increase in the Consumer Price Index.

(a) *General.* We measure the rise in the CPI during the applicable measuring period (described in paragraph (b) of this section) to determine the amount of automatic cost-of-living increases.

(b) *Measuring period.* (1) The measuring period we use for finding the amount of automatic cost-of-living increases—

(i) Begins with—

(A) The first calendar quarter of any year in which an automatic increase became effective; or

(B) Any calendar quarter in which an *ad hoc* benefit increase is effective; and

(ii) Ends with the first calendar quarter of the following year, but only if the CPI has increased by at least 3 percent since the beginning of the measuring period (if the CPI increase is less than 3 percent, we extend the measuring period to the first quarter of the next year, doing so repeatedly until the 3 percent level is reached).

(2) No automatic cost-of-living increase is possible for the calendar year that immediately follows a year in which an *ad hoc* increase took effect (or was passed by Congress and signed into law by the President). The measuring period for the next automatic cost-of-living increase—

(i) Begins with the calendar quarter in which the *ad hoc* increase took effect; and

(ii) Ends with the first calendar quarter of the second year after the year of the *ad hoc* increase, but only if the CPI has increased by at least 3 percent since the beginning of the measuring period. (If the CPI increase is less than 3 percent, we extend the measuring period to the first quarter of the next year, doing so repeatedly until the 3 percent level is reached.)

§ 404.275 Amount of automatic cost-of-living increase.

When the average of the CPI for the three months of the quarter ending the measuring period is at least 3 percent higher than the average of the CPI for the three months of the first quarter in the measuring period, an automatic cost-of-living increase is due. To compute the average of the CPI, the three monthly CPI figures (which are published to one decimal place) are added, and the total is divided by 3 and then rounded to the nearest 0.1. We apply the increase (rounded to the nearest one-tenth of one percent) to the amounts described in § 404.271. We round the resulting amounts to the next higher multiple of $0.10 if not already a multiple of $0.10.

Example. Mr. G's primary insurance amount in January 1979 is $200. The measurement for the June 1979 automatic cost-of-living increase is between the calendar quarter ending March 31, 1978, and the quarter which ends a year later. The average of the CPI for the 3 months of the calendar quarter ending March 31, 1979, is found to be 9.9 percent higher than the average of the CPI for the 3 months of the calendar quarter ending March 31, 1978. We increase Mr. G's primary insurance amount by 9.9 percent to $219.80 effective beginning with June 1979, by 14.3 percent to $251.30 effective with June 1980, and by 11.2 percent to $279.50 effective with June 1981. We will check CPI increases in each subsequent measuring period to determine cost-of-living increases.

§ 404.276 Publication of notice of increase.

When we determine that an automatic cost-of-living increase is due, we publish in the **Federal Register** within 45 days of the end of the measuring period used in finding the amount of the increase—

(a) The fact that an increase is due;

(b) The amount of the increase;

(c) The increased special minimum primary insurance amounts; and

(d) The range of increased maximum family benefits that corresponds to the range of increased special minimum primary insurance amounts.

§ 404.277 Automatic increases of "frozen" minimum primary insurance amount.

(a) *General.* There are special rules for automatic cost-of-living increases in the minimum primary insurance amount for people whose primary insurance amount is computed under the average-indexed-monthly-earnings method. The minimum primary insurance amount is "frozen," for people becoming eligible after 1978, at $122 (the least amount in the benefit table in effect in December 1978, rounded to the next higher $1.00. See Appendix III.). The frozen minimum is subject to automatic cost-of-living increases only in years in which you or your dependents or survivors are entitled to benefits.

(b) *Old-age insurance benefit based on frozen minimum primary insurance amount.* We apply automatic cost-of-living increases to your minimum primary insurance amount beginning with the earliest of—

(1) June of the year you become entitled to benefits and get at least a partial benefit; or

(2) June of the year you reach age 65 if you are entitled to benefits at or before age 65, regardless of whether you get at least a partial benefit; or

(3) June of the year you become entitled to benefits if that is not until after you reach age 65.

(c) *Survivor benefits based on minimum primary insurance amount either before or after the worker's entitlement to old-age insurance benefits.*

(1) We apply automatic cost-of-living increases to your minimum primary insurance amount for purposes of adjusting the benefits of your survivors—

(i) In June of any year in which your children, your surviving spouse caring for your children, or your parents are entitled to survivors benefits for at least one month; and

(ii) Beginning with June of the earlier of—

(A) The year your aged surviving spouse (as defined in §§ 404.335 and 404.336) becomes entitled to benefits and gets at least a partial benefit; or

(B) The year your surviving spouse is 65 or older and becomes entitled to benefits.

(2) Automatic cost-of-living increases are not applied to your minimum primary insurance amount in any year in which no survivor of yours is entitled to benefits on your social security record.

Recomputing Your Primary Insurance Amount

§ 404.280 Recomputations.

At times after you or your survivors become entitled to benefits, we will recompute your primary insurance amount if doing so will increase it. There is no limit on the number of times your primary insurance amount may be recomputed, and we do most recomputations automatically. In the following sections, we explain:

(1) Why a recomputation is made (§ 404.281),

(2) When a recomputation takes effect (§ 404.282),

(3) Methods of recomputing (§§ 404.283 and 404.284),

(4) Automatic recomputations (§ 404.285),

(5) Requesting a recomputation (§ 404.286), and

(6) Waiving a recomputation (§ 404.287).

§ 404.281 Why your primary insurance amount may be recomputed.

(a) *Earnings not included in earlier computation or recomputation.* The most common reason for recomputing your primary insurance amount is to include earnings of yours that were not used in the first computation or in an earlier recomputation, as described in paragraphs (c) through (e) of this section. These earnings will result in a revised average monthly wage or revised average indexed monthly earnings.

(b) *New computation method enacted.* If a new method of computing or recomputing primary insurance amounts is enacted into law and you are eligible to have your primary insurance amount recomputed under the new method, we will recompute it under the new method if doing so would increase your primary insurance amount.

(c) *Earnings in the year you reach age 62 or become disabled.* In the initial computation of your primary insurance amount, we do not use your earnings in the year you become entitled to old-age insurance benefits or become disabled. However, we can use those earnings (called "lag earnings") in a recomputation of your primary insurance amount. We recompute and begin paying you the higher benefits in the year after the year you become entitled to old-age benefits or become disabled.

(d) *Earnings not reported to us in time to use them in the computation of your primary insurance amount.* Because of the way reports of earnings are required to be submitted to us for years after 1977, the earnings you have in the year before you become entitled to old-age insurance benefits, or become disabled or in the year you die might not be reported to us in time to use them in computing your primary insurance amount. We recompute your primary insurance amount based on the new earnings information and begin paying you (or your survivors) the higher benefits based on the additional earnings, beginning with the month you became entitled or died.

(e) *Earnings after entitlement that are used in a recomputation.* Earnings that you have after you become entitled to benefits will be used in a recomputation of your primary insurance amount.

§ 404.282 Effective date of recomputations.

Most recomputations are effective beginning with January of the calendar year after the year in which the additional earnings used in the recomputation were paid. However, a recomputation to include earnings in the year of death (whether or not paid before death) is effective for the month of death.

§ 404.283 Recomputation under method other than that used to find your primary insurance amount.

In some cases, we may recompute your primary insurance amount under a computation method different from the method used in the computation (or earlier recomputation) of your primary insurance amount, if you are eligible for a computation or recomputation under the different method.

§ 404.284 Recomputations for people who reach age 62, or become disabled or die before age 62 after 1978.

(a) *General.* Years of your earnings after 1978 not used in the computation of your primary insurance amount (or in earlier recomputations) under the average-indexed-monthly-earnings method may be substituted for earlier years of your indexed earnings in a recomputation, but only under the average-indexed-monthly-earnings method.

(b) *Substituting actual dollar amounts in earnings for earlier years of indexed earnings.* When we recompute your primary insurance amount under the average-indexed-monthly earnings method, we use actual dollar amounts, i.e., no indexing, for earnings not included in the initial computation or earlier recomputation. These later earnings are substituted for earlier years of indexed or actual earnings that are lower.

(c) *Benefit formula used in recomputation.* The formula that was used in the first computation of your primary insurance amount is also used in recomputations of your primary insurance amount.

(d) *Your recomputed primary insurance amount.* We recompute your primary insurance amount by applying the benefit formula to your average indexed monthly earnings as revised to include additional earnings. See § 404.281. We then increase the recomputed PIA by the amounts of any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that have become effective since you reached age 62, or became disabled or died before age 62.

(e) *Minimum increase in primary insurance amounts.* Your primary insurance amount may not be recomputed unless doing so would increase it by at least $1.

Example 1. Ms. A, whose primary insurance amount we computed to be $432.40 in June 1979 in §§ 404.210–404.212 (based on average indexed monthly earnings of $903), had earnings of $11,000 in 1979 which were not used in the initial computation of her primary insurance amount. We may recompute her primary insurance amount effective for January 1980. In this recomputation, her 1979 earnings may be substituted in their actual dollar amount for the lowest year of her indexed earnings that was used in the initial computation. In Ms. A's case, we substitute the $11,000 for her 1966 indexed earnings of $8,911.36. Her total indexed earnings are now $251,470.05 and her new average indexed monthly earnings are $911. We apply to Ms. A's new average indexed monthly earnings the same benefit formula we used in the initial computation. Doing so produces an amount of $396.00. An automatic cost-of-living increase of 9.9 percent was effective in June 1979. We increase the $396.00 amount by 9.9 percent to find Ms. A's recomputed primary insurance amount of $435.30. Later we increased the primary insurance amount to $497.60 to reflect the 14.3 percent cost-of-living increase beginning June 1980 and to $553.40 to reflect the 11.2 percent cost-of-living increase beginning June 1981.

Example 2. Mr. B, whose primary insurance amount we computed to be $429.20 (based on average monthly wages of $502) in June 1978 in §§ 404.220–404.222, had earnings of $12,000 in 1978 which were not used in the initial computation of his primary insurance amount. We may recompute his primary insurance amount effective for January 1979. In this recomputation, his 1978 earnings are substituted for the lowest year of earnings used in the initial computation ($2,700 in 1952). Mr. B's total earnings are now $142,000 and his new average monthly wage is $537.

We next find Mr. B's new average monthly wage in Column III of the December 1978 benefit table in Appendix III. Reading across, we find his recomputed primary insurance amount on the same line in Column IV, which is $407.70. We then apply the 9.9 percent, the 14.3 percent and the 11.2 percent automatic cost-of-living increases for June 1979, June

1980, and June 1981, respectively, to compute Mr. B's primary insurance amount of $569.60.

(f) *Guaranteed alternatives.* We may recompute your primary insurance amount by any of the following methods for which you qualify, if doing so would result in a higher amount than the one computed under the average-indexed-monthly-earnings method. Earnings in or after the year you reach age 62 cannot be used.

(1) If you reached age 62 after 1978 and before 1984, we may recompute to include earnings for years before the year you reached age 62 by using the guaranteed alternative (§ 404.231). We will increase the result by any cost-of-living or *ad hoc* increases in the primary insurance amounts that have become effective in and after the year you reached age 62.

(2) We will also recompute under the old-start guarantee (§ 404.242) and the prior-disability guarantee (§ 404.252) if you meet the requirements of either or both these methods.

§ 404.285 Recomputations performed automatically.

Each year, we examine the earnings record of every retired, disabled, and deceased worker to see if the worker's primary insurance amount may be recomputed under any of the methods we have described. When a recomputation is called for, we perform it automatically and begin paying the higher benefits based on your recomputed primary insurance amount for the earliest possible month that the recomputation can be effective. You do not have to request this service, although you may request a recomputation at an earlier date than one would otherwise be performed (see § 404.286). Doing so, however, does not allow your increased primary insurance amount to be effective any sooner than it would be under an automatic recomputation. You may also waive a recomputation if one would disadvantage you or your family (see § 404.287).

§ 404.286 How to request an immediate recomputation.

You may request that your primary insurance amount be recomputed sooner than it would be recomputed automatically. To do so, you must make the request in writing to us and provide acceptable evidence of your earnings not included in the first computation or earlier recomputation of your primary insurance amount. If doing so will increase your primary insurance amount, we will recompute it. However, we cannot begin paying higher benefits on the recomputed primary insurance amount any sooner than we could under an automatic recomputation, i.e., for January of the year following the year in which the earnings were paid or derived.

§ 404.287 Waiver of recomputation.

If you or your family would be disadvantaged in some way by a recomputation of your primary insurance amount, or you and every member of your family do not want your primary insurance amount to be recomputed for any other reason, you may waive (that is, give up your right to) a recomputation, but you must do so in writing. That you waive one recomputation, however, does not mean that you also waive future recomputations for which you might be eligible.

Recalculations of Primary Insurance Amounts

§ 404.290 Recalculations.

(a) Your primary insurance amount may be "recalculated" in certain instances. When we recalculate your primary amount, we refigure it under the same method we used in the first computation by taking into account—

(1) Earnings (including compensation for railroad service) incorrectly included or excluded in the first computation;

(2) Special deemed earnings credits including credits for military service (see Subpart N of this part) and for individuals interned during World War II (see Subpart K of this part), not available at the time of the first computation;

(3) Correction of clerical or mathematical errors; or

(4) Other miscellaneous changes in status.

(b) Unlike recomputations, which may only serve to increase your primary insurance amount, recalculations may serve to either increase or reduce it.

Appendices

The following appendices contain data that are needed in computing primary insurance amounts. Appendix I contains "average of the total wages" figures, which we use to "index" a worker's earnings for purposes of computing his or her average indexed monthly earnings. Appendix II contains benefit formulas which we apply to a worker's average indexed monthly earnings to find his or her primary insurance amount. Appendix III contains the benefit table we use to find a worker's primary insurance amount from his or her average monthly wage. We use the figures in Appendix IV to find your years of coverage for years after 1950 for purposes of your special minimum primary insurance amount. Appendix V contains the table for computing the special minimum primary insurance amount. Appendix VI is a table of the percentage increases in primary insurance amounts since 1978.

The figures in the appendices are by law automatically adjusted each year. We are required to announce the changes through timely publication in the **Federal Register**. We do not change every one of these figures, but instead provide new ones for each year that passes. We continue to use the old ones for various computation purposes, as the regulations show. Most of the new figures for these appendices are required by law to be published by November 1 of each year. The two exceptions to this date are the publication requirements for new data for Appendix V, "Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits," and Appendix VI, "Percentage of Increases in Primary Insurance Amounts After 1978." Notice of automatic cost-of-living increases in primary insurance amounts is required to be published within 45 days of the end of the applicable measuring period for the increase (see §§404.274 and 404.276). In effect, publication is required within 45 days of the end of the first calendar quarter of any year in which there is to be an automatic cost-of-living increase (that is, by May 15).

We begin to use the new data in computing primary insurance amounts as soon as required by law, even before we periodically update these appendices. If the data you need to find your primary insurance amount have not yet been included in the appendices, you may find the figures in the **Federal Register** on or about the dates specified.

Appendix I—Average of the Total Wages for Years after 1950

Explanation: We use these figures to index your social security earnings (as described in § 404.211) for purposes of computing your average indexed monthly earnings.

Calendar year	Average of the total wages
1951	$2,799.16
1952	2,973.32
1953	3,139.44
1954	3,155.64
1955	3,301.44
1956	3,532.36
1957	3,641.72
1958	3,673.80
1959	3,855.80
1960	4,007.12
1961	4,086.76
1962	4,291.40
1963	4,396.64
1964	4,576.32
1965	4,658.72
1966	4,938.36
1967	5,213.44
1968	5,571.76
1969	5,893.76
1970	6,186.24
1971	6,497.08
1972	7,133.80
1973	7,580.16
1974	8,030.76
1975	8,630.92
1976	9,226.48
1977	9,779.44
1978	10,556.03
1979	11,479.46
1980	12,513.46

Appendix II—Benefit Formulas Used With Average Indexed Monthly Earnings

As explained in § 404.212, we use one of the formulas below to compute your primary insurance amount from your average indexed monthly earnings (AIME). To select the appropriate formula, we find in the left-hand column the year after 1978 in which you reach age 62, or become disabled, or die before age 62. The benefit formula to be used in computing your primary insurance amount begins on the same line in the right-hand column. After we figure your amount for each step in the formula, we add the amounts and round the total upward to the nearest $0.10, (ten cents), if not already a multiple of $0.10.

BENEFIT FORMULAS

Year you reach age 62—[1]	Formula
1979	90 percent of the first $180 of AIME; plus 32 percent of the next $905 of AIME; plus 15 percent of AIME over $1,085.
1980	90 percent of the first $194 of AIME; plus 32 percent of the next $977 of AIME; plus 15 percent of AIME over $1,171.
1981	90 percent of the first $211 of AIME; plus 32 percent of the next $1,063 of AIME; plus 15 percent of AIME over $1,274.
1982	90 percent of the first $230 of AIME; plus 32 percent of the next $1,158 of AIME; plus 15 percent of AIME over $1,388.

[1] Or become disabled or die before age 62.

Appendix III.—Benefit Table

This benefit table shows primary insurance amounts and maximum family benefits in effect in December 1978 based on cost-of-living increases which became effective for June 1978. (See § 404.403 for information on maximum family benefits.) You will also be able to find primary insurance amounts for an individual whose entitlement began in the period June 1977 through May 1978.

To use this table, you must first compute the primary insurance benefit (column I) or the average monthly wage (column III), then move across the same line to either column II or column IV as appropriate. To determine increases in primary insurance amounts since December 1978, you should see Appendix VI. Appendix VI tells you, by year, the percentage of the increases. In applying each cost-of-living increase to primary insurance amounts, we round the increased primary insurance amount to the next higher multiple of $0.10 if not already a multiple of $0.10.

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
	$16.20	$114.30		$76	$121.80	$182.70
$16.21	16.84	116.10	$7.7	78	123.70	185.60
16.85	17.60	118.80	79	80	126.60	189.90
17.61	18.40	121.00	81	81	128.90	193.50
18.41	19.24	123.10	82	83	131.20	196.80
19.25	20.00	125.80	84	85	134.00	201.00
20.01	20.64	128.10	86	87	136.50	204.80
20.65	21.28	130.10	88	89	138.60	207.90
21.29	21.88	132.70	90	90	141.40	212.10
21.89	22.28	135.00	91	92	143.80	215.70
22.29	22.68	137.20	93	94	146.20	219.20
22.69	23.08	139.40	95	96	148.50	222.80
23.09	23.44	142.00	97	97	151.30	227.00
23.45	23.76	144.30	98	99	153.70	230.60
23.77	24.20	147.10	100	101	156.70	235.10
24.21	24.60	149.20	102	102	158.90	238.50
24.61	25.00	151.70	103	104	161.60	242.40
25.01	25.48	154.50	105	106	164.60	246.90
25.49	25.92	157.00	107	107	167.30	251.00
25.93	26.40	159.40	108	109	169.80	254.80
26.41	26.94	161.90	110	113	172.50	258.80
26.95	27.46	164.20	114	118	174.90	262.40
27.47	28.00	166.70	119	122	177.60	266.50
28.01	28.68	169.30	123	127	180.40	270.60
28.69	29.25	171.80	128	132	183.00	274.60
29.26	29.68	174.10	133	136	185.50	278.30
29.69	30.36	176.50	137	141	188.00	282.10
30.37	30.92	179.10	142	146	190.80	286.20
30.93	31.36	181.70	147	150	193.60	290.40
31.37	32.00	183.90	151	155	195.90	293.90
32.01	32.60	186.50	156	160	198.70	298.10
32.60	33.20	189.00	161	164	201.30	302.00
33.21	33.88	191.40	165	169	203.90	305.90
33.89	34.50	194.00	170	174	206.70	310.10
34.51	35.00	196.30	175	178	209.10	313.70
35.01	35.80	198.90	179	183	211.90	318.00
35.81	36.40	201.30	184	188	214.40	321.70
36.41	37.08	203.90	189	193	217.20	326.00
37.09	37.60	206.40	194	197	219.90	329.90
37.61	38.20	208.80	198	202	222.40	333.60
38.21	39.12	211.50	203	207	225.30	338.0
39.13	39.68	214.00	208	211	228.00	342.00
39.69	40.33	216.00	212	216	230.10	345.20
40.34	41.12	218.70	217	221	233.00	349.50
41.13	41.76	221.20	222	225	235.60	353.40
41.77	42.44	223.90	226	230	238.50	357.80
42.45	43.20	226.30	231	235	241.10	361.70
43.21	43.76	229.10	236	239	244.00	366.10
43.77	44.44	231.20	240	244	246.30	371.10
44.45	44.88	233.50	245	249	248.70	378.80
44.89	45.60	236.40	250	253	251.80	384.90
		238.70	254	258	254.30	392.50
		240.80	259	263	256.50	400.00
		243.70	264	267	259.60	406.00
		246.10	268	272	262.10	413.70
		248.70	273	277	264.90	421.20

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		251.00	278	281	267.40	427.20
		253.50	282	286	270.00	434.90
		256.20	287	291	272.90	442.60
		258.30	292	295	275.10	448.50
		261.10	296	300	278.10	456.10
		263.50	301	305	280.70	463.80
		265.80	306	309	283.10	469.80
		268.50	310	314	286.00	477.40
		270.70	315	319	288.30	485.10
		273.20	320	323	291.00	491.10
		275.80	324	328	293.80	498.70
		278.10	329	333	296.20	506.20
		281.00	334	337	299.30	512.50
		283.00	338	342	301.40	519.90
		285.60	343	347	304.20	527.50
		288.30	348	351	307.10	533.60
		290.50	352	356	309.40	541.20
		293.30	357	361	312.40	548.80
		295.60	362	365	314.90	554.90
		297.90	366	370	317.30	562.50
		300.60	371	375	320.20	569.90
		303.10	376	379	322.90	576.30
		305.70	380	384	325.60	583.90
		307.90	385	389	328.00	591.30
		310.30	390	393	330.50	597.40
		313.00	394	398	333.40	605.10
		315.40	399	403	336.00	612.70
		318.20	404	407	338.90	618.60
		320.20	408	412	341.10	626.30
		322.50	413	417	343.50	633.80
		324.80	418	421	346.00	639.90
		327.40	422	426	348.70	647.50
		329.60	427	431	351.10	655.10
		331.60	432	436	353.20	662.70
		334.40	437	440	356.20	665.70
		336.50	441	445	358.40	669.70
		338.70	446	450	360.80	673.40
		341.30	451	454	363.50	676.30
		343.50	455	459	365.90	680.10
		345.80	460	464	368.30	683.80
		347.90	465	468	370.60	687.10
		350.70	469	473	373.50	690.80
		352.60	474	478	375.60	694.60
		354.90	479	482	378.00	697.70
		357.40	483	487	380.70	701.60
		359.70	488	492	383.10	705.40
		361.90	493	496	385.50	708.40
		364.50	497	501	388.20	712.10
		366.60	502	506	390.50	715.80
		368.90	507	510	392.90	719.00
		371.10	511	515	395.30	722.80
		373.70	516	520	398.00	726.70
		375.80	521	524	400.30	729.50
		378.10	525	529	402.70	733.30
		380.80	530	534	405.60	737.10
		382.80	535	538	407.70	740.20
		385.10	539	543	410.20	744.10
		387.60	544	548	412.80	747.80
		389.90	549	553	415.30	751.60
		392.10	554	556	417.60	753.90
		393.90	557	560	419.60	756.90
		396.10	561	563	421.90	759.30
		398.20	564	567	424.10	762.30
		400.40	568	570	426.50	764.50
		402.30	571	574	428.50	767.50
		404.40	575	577	430.70	769.90
		406.20	578	581	432.70	772.80
		408.40	582	584	435.00	775.20
		410.20	585	588	436.90	778.20
		412.60	589	591	439.50	780.50
		414.60	592	595	441.60	783.50
		416.70	596	598	443.80	785.60
		418.70	599	602	446.00	788.90
		420.70	603	605	448.10	791.10
		422.80	606	609	450.30	794.00
		424.90	610	612	452.60	796.50
		426.90	613	616	454.70	799.50
		428.90	617	620	456.80	802.50
		431.00	621	623	459.10	804.80
		433.00	624	627	461.20	807.90
		435.10	628	630	463.40	810.70
		437.10	631	634	465.60	814.70
		439.20	635	637	467.80	818.50

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		441.40	638	641	470.10	822.40
		443.20	642	644	472.10	826.10
		445.40	645	648	474.40	830.10
		447.40	649	652	476.50	833.70
		448.60	653	656	477.80	836.10
		449.90	657	660	479.20	838.40
		451.50	661	665	480.90	841.50
		453.10	666	670	482.60	844.50
		454.80	671	675	484.40	847.40
		456.40	676	680	486.10	850.50
		458.00	681	685	487.80	853.50
		459.80	686	690	489.70	856.40
		461.20	691	695	491.20	859.60
		462.80	696	700	492.90	862.60
		464.50	701	705	494.70	865.60
		466.10	706	710	496.40	868.60
		467.70	711	715	498.20	871.50
		469.40	716	720	500.00	874.60
		471.00	721	725	501.70	877.60
		472.60	726	730	503.40	880.70
		474.20	731	735	505.10	883.80
		475.90	736	740	506.90	886.70
		477.40	741	745	508.50	889.90
		478.90	746	750	510.10	892.70
		480.40	751	755	511.70	895.40
		481.80	756	760	513.20	897.80
		483.20	761	765	514.70	900.40
		484.50	766	770	516.00	903.00
		485.80	771	775	517.40	905.40
		487.20	776	780	518.90	907.90
		488.60	781	785	520.40	910.40
		489.80	786	790	521.70	912.90
		491.10	791	795	523.10	915.40
		492.50	796	800	524.60	918.00
		494.00	801	805	526.20	920.50
		495.30	806	810	527.50	923.00
		496.70	811	815	529.00	925.60
		498.00	816	820	530.40	928.00
		499.40	821	825	531.90	930.60
		500.70	826	830	533.30	933.10
		502.00	831	835	534.70	935.70
		503.30	836	840	536.10	938.10
		504.70	841	845	537.60	940.80
		506.00	846	850	538.90	943.00
		507.50	851	855	540.50	945.70
		508.80	856	860	541.90	948.10
		510.20	861	865	543.40	950.70
		511.50	866	870	544.80	953.20
		512.90	871	875	546.30	955.70
		514.10	876	880	547.60	958.20
		515.50	881	885	549.10	960.80
		516.80	886	890	550.40	963.20
		518.20	891	895	551.90	966.00
		519.60	896	900	553.40	968.30
		521.00	901	905	554.90	970.90
		522.30	906	910	556.30	973.50
		523.70	911	915	557.80	976.00
		525.10	916	920	559.30	978.30
		526.30	921	925	560.60	981.00
		527.60	926	930	561.90	983.40
		529.00	931	935	563.40	985.90
		530.40	936	940	564.90	988.50
		531.70	941	945	566.30	991.00
		533.00	946	950	567.70	993.50
		534.50	951	955	569.30	996.10
		535.90	956	960	570.80	998.60
		537.30	961	965	572.30	1001.00
		538.40	966	970	573.40	1003.60
		539.80	971	975	574.90	1006.20
		541.20	976	980	576.40	1008.50
		542.60	981	985	577.90	1011.10
		543.80	986	990	579.20	1013.60
		545.20	991	995	580.70	1016.20
		546.60	996	1000	582.20	1018.60
		547.80	1001	1005	583.50	1020.70
		548.90	1006	1010	584.60	1023.20
		550.20	1011	1015	586.00	1025.30
		551.50	1016	1020	587.40	1027.80
		552.60	1021	1025	588.60	1029.90
		553.80	1026	1030	589.80	1032.20
		555.10	1031	1035	591.20	1034.50
		556.20	1036	1040	592.40	1036.70
		557.50	1041	1045	593.80	1039.10

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		558.80	1046	1050	595.20	1041.30
		559.80	1051	1055	596.20	1043.40
		561.10	1056	1060	597.60	1045.90
		562.40	1061	1065	599.00	1048.00
		563.60	1066	1070	600.30	1050.50
		564.80	1071	1075	601.60	1052.60
		566.00	1076	1080	602.80	1054.90
		567.30	1081	1085	604.20	1057.10
		568.40	1086	1090	605.40	1059.40
		569.70	1091	1095	606.80	1061.70
		571.00	1096	1100	608.20	1064.00
		572.00	1101	1105	609.20	1066.10
		573.30	1106	1110	610.60	1068.50
		574.60	1111	1115	612.00	1070.70
		575.70	1116	1120	613.20	1073.10
		577.00	1121	1125	614.60	1075.30
		578.20	1126	1130	615.80	1077.60
		579.40	1131	1135	617.10	1079.70
		580.60	1136	1140	618.40	1082.20
		581.90	1141	1145	619.80	1084.40
		583.10	1146	1150	621.10	1086.70
		584.20	1151	1155	622.20	1088.80
		585.50	1156	1160	623.60	1091.10
		586.70	1161	1165	624.90	1093.40
		587.90	1166	1170	626.20	1095.80
		589.20	1171	1175	627.50	1098.00
		590.30	1176	1180	628.70	1100.20
		591.40	1181	1185	629.90	1102.20
		592.60	1186	1190	631.20	1104.30
		593.70	1191	1195	632.30	1106.50
		594.80	1196	1200	633.50	1108.60
		595.90	1201	1205	634.70	1110.60
		597.10	1206	1210	636.00	1112.90
		598.20	1211	1215	637.10	1114.90
		599.30	1216	1220	638.30	1117.00
		600.40	1221	1225	639.50	1119.00
		601.60	1226	1230	640.80	1121.20
		602.70	1231	1235	641.90	1123.20
		603.80	1236	1240	643.10	1125.40
		605.00	1241	1245	644.40	1127.50
		606.10	1246	1250	645.50	1129.60
		607.20	1251	1255	646.70	1131.60
		608.30	1256	1260	647.90	1133.80
		609.50	1261	1265	649.20	1135.90
		610.60	1266	1270	650.30	1138.00
		611.70	1271	1275	651.50	1140.00
		612.80	1276	1280	652.70	1142.20
		613.80	1281	1285	653.70	1144.10
		614.90	1286	1290	654.90	1146.10
		616.00	1291	1295	656.10	1148.00
		617.00	1296	1300	657.20	1150.00
		618.10	1301	1305	658.30	1152.00
		619.10	1306	1310	659.40	1154.00
		620.20	1311	1315	660.60	1155.90
		621.30	1316	1320	661.70	1157.90
		622.30	1321	1325	662.80	1159.80
		623.40	1326	1330	664.00	1161.90
		624.40	1331	1335	665.00	1163.80
		625.50	1336	1340	666.20	1165.80
		626.60	1341	1345	667.40	1167.70
		627.60	1346	1350	668.40	1169.70
		628.70	1351	1355	669.60	1171.70
		629.70	1356	1360	670.70	1173.70
		630.80	1361	1365	671.90	1175.60
		631.80	1366	1370	672.90	1177.70
		632.90	1371	1375	674.10	1179.60
		633.90	1376	1380	675.20	1181.60
		634.90	1381	1385	676.20	1183.40
		635.90	1386	1390	677.30	1185.30
		636.90	1391	1395	678.30	1187.10
		637.90	1396	1400	679.40	1189.00
		638.90	1401	1405	680.50	1190.80
		639.90	1406	1410	681.50	1192.70
		640.90	1411	1415	682.60	1194.60
		641.90	1416	1420	683.70	1196.50
		642.90	1421	1425	684.70	1198.30
		643.90	1426	1430	685.80	1200.20
		644.90	1431	1435	686.90	1202.00
		645.90	1436	1440	687.90	1203.90
		646.90	1441	1445	689.00	1205.70
		647.90	1446	1450	690.10	1207.70
		648.90	1451	1455	691.10	1209.50
		649.90	1456	1460	692.20	1211.40

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		650.90	1461	1465	693.30	1213.20
		651.90	1466	1470	694.30	1215.10
		652.90	1471	1475	695.40	1216.90

Appendix IV.—Special Minimum Primary Insurance Amount; Earnings Needed for a Year of Coverage After 1950

Minimum social security earnings to qualify for a year of coverage after 1950 for purposes of the special minimum primary insurance amount.

Years	Amount
1951–54	$900
1955–58	1,050
1959–65	1,200
1966–67	1,650
1968–71	1,950
1972	2,250
1973	2,700
1974	3,300
1975	3,525
1976	3,825
1977	4,125
1978	4,425
1979	4,725
1980	5,100
1981	5,550
1982	6,075

Note.—For 1951–78, the amounts shown are ¼ of the contribution and benefit base (see § 404.1048) in effect. For years after 1978, however, the amounts are ¼ of what the contribution and benefit base would have been if the 1977 social security amendments had not been enacted.

Appendix V—Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits

These tables are based on section 215(a)(1)(C)(i)(II) of the Social Security Act, as amended. They include the 9.9 percent cost-of-living increase which became effective June 1979, the 14.3 percent cost-of-living increase which became effective June 1980, and the 11.2 percent increase effective June 1981.

JUNE 1979

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11	$12.70	$19.10
12	25.30	38.00
13	38.00	57.00
14	50.60	75.90
15	63.20	94.90
16	75.90	113.90
17	88.50	132.80
18	101.20	151.80
19	113.80	170.70
20	126.40	189.60
21	139.10	208.70
22	151.70	227.60
23	164.40	246.60
24	177.00	265.50
25	189.60	284.50
26	202.30	303.50
27	214.90	322.40
28	227.50	341.30
29	240.20	360.30
30	252.80	379.20

JUNE 1980

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11	$14.60	$21.90
12	29.00	43.50
13	43.50	65.30
14	57.90	86.90
15	72.30	108.50
16	86.80	130.20
17	101.20	151.80
18	115.70	173.60

JUNE 1980—Continued

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
19	130.10	195.20
20	144.50	216.80
21	159.00	238.60
22	173.40	260.20
23	188.00	282.00
24	202.40	303.60
25	216.80	325.20
26	231.30	347.00
27	245.70	368.60
28	260.10	390.20
29	274.60	411.90
30	289.00	433.50

JUNE 1981

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefits
11	$16.30	$24.50
12	32.30	48.50
13	48.40	72.70
14	64.40	96.70
15	80.40	120.70
16	96.60	144.90
17	112.60	168.90
18	128.70	193.10
19	144.70	217.10
20	160.70	241.10
21	176.90	265.40
22	192.90	289.40
23	209.10	313.70
24	225.10	337.70
25	241.10	361.70
26	257.30	386.00
27	273.30	410.00
28	289.30	434.00
29	305.40	458.10
30	321.40	482.10

NOTE.—The amounts shown in the above table for years of coverage less than 19 are not payable for June 1981 through December 1981 because the corresponding values shown in column II are less than the $135.70 minimum primary insurance amount payable for that period. For months after December 1981, a special minimum primary insurance amount of $128.70 will be payable.

Appendix VI—Percentage of Increases in Primary Insurance Amounts Since 1978

Effective date	Percentage of increase	Kind of increase
6/79	9.9	Automatic.
6/80	14.3	Automatic.
6/81	11.2	Automatic.

[FR Doc. 82-19012 Filed 7-14-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 202a, 203, 204, 209, 211, 221, 228 and 235

[Docket No. R-82-979]

Mutual Mortgage Insurance and Rehabilitation Loans

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule requires mortgagees to pay the annual mortgage insurance premium (MIP) in installments due on or before the 10th of the month following the month in which payments are received from the mortgagors. The change would comply with § 530 of the National Housing Act. Under the rule mortgagees would not be relieved of the obligation to pay the annual premium should the borrower fail to make payments into the escrow account.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–8680 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: A proposed rule governing the time of payment of MIP authorized by Section 530 of the National Housing Act, as

added by Section 320 of the Housing and Community Development Act of 1980, was published in the Federal Register for public comment on May 11, 1982 (Volume 47, Number 91, 20149–20159). Interested parties were given until June 10, 1982 to submit written comments. One hundred eleven public comments were received on the proposed rule. The majority of comments were received from savings and loan institutions. Other comments were received from investment bankers, mortgage companies, savings banks and trade associations. One comment was received from an individual.

DISCUSSION OF COMMENTS: All comments received were against the change. While several different issues were raised, one common criticism was contained in all comments. Lenders were unanimous in declaring that monthly remittances would greatly increase costs. Computer reprogramming, increased staffing, mailing and check writing costs were the most frequent items mentioned as expected to increase.

Several commentors requested a delay of two to three months in the implementation date. This is to allow for the designing, programming, and testing of a major systems change. It was pointed out that, in earlier discussions between HUD and the industry, HUD promised a minumum lead time of six months within which mortgagees could effect the changeover. Commentors pointed out that, if the implementation date remains at September 1, 1982, only half of the promised lead time will be available and they say that is not enough time.

Some lenders suggested that, as an alternative to monthly remittances, HUD should bill and collect MIP payments annually, in advance.

Other commentors doubted HUD's ability to handle monthly remittances in view of its performance in the past with respect to annual remittances and reconcilement.

Many commentors felt that, if monthly remittances will be required, it would cause them to consider disposing of their FHA-insured mortgages and withdrawing from further participation in FHA programs.

Still other lenders spoke of the additional paper work and costs (which would probably be passed on to the consumer) the revised system would require at a time when there is a Presidential mandate to reduce paper work and the burden of Government regulation.

Finally, commentors pointed out that the proposed rule imposes the new payment requirements with respect to mortgages already insured, whereas, in fairness, the new requirements should apply only to mortgages insured in the future.

The changes in the remittance requirements were brought about by Congressional action. Section 530 of the National Housing Act, as added by Section 320 of the Housing and Community Development Act of 1980 provided that the Secretary must require mortgage insurance premiums (MIP) to be remitted by mortgagees promptly upon their receipt from the borrower, except that the Secretary may approve an alternate method of remittance which would permit lenders to retain premiums for up to two years, provided interest was paid to the Secretary for the period of delay in remittance. This alternative method was considered but rejected by the Department. The report of the Committee on Banking, Finance and Urban Affairs of the House of Representatives (H.R. Rep. 96–979 96th Congress 2nd Session 60 (1980)), clearly indicates that it intended the alternate method to be temporary, pending implementation of the procedures for monthly collections. In enacting Section 530, Congress intended to remedy two problems. First, it wanted the FHA Insurance Funds to be credited with MIP payments on a more frequent basis than once a year, as is currently the case. The funds would thus receive the benefit of interest on the MIP payments by the mortgagor. Second, it intended to eliminate the financial advantages inuring to mortgagees under the present system, which allows mortgagees to hold premiums in escrow until remitted upon the annual billing.

The first policy consideration with respect to implementing Section 530 was to revert to advance collection of the annual MIP. This was the system in effect prior to August 5, 1957. The Office of General Counsel rendered an opinion that such procedures would not comply with the intent of the legislation. Under advance billing, mortgagees would continue to have the benefit of MIP collected monthly from the borrower but have to remit only once a year. Undoubtedly, Congress envisioned monthly remittance, and that fact is evidenced in the House Report mentioned above. The report clearly indicates that HUD is expected to develop a system capable of receiving monthly payments.

During the course of developing procedures to comply with the law, several other monthly remittance options were considered, but none came close to meeting HUD's desire for a system which would both minimize the financial and administrative impacts on the industry and address the Department's internal needs and problems. The procedures are the result of a careful analysis of all aspects of the problem and reflect ideas, comments and recommendations from industry organizations who have provided ongoing and valuable input on the system from the mortgagee's perspective. We have been sensitive to the problems of the industry in devising this system, and it is our belief that it is the one which impacts the least adversely on both mortgagees and HUD.

We recognize that added costs, to the extent that they may be generated by the imposition of these requirements, may well be passed on to consumers. It has not been possible, however, to determine the extent, if any, of these added costs or to assess their potential impact on the availability or cost of credit. Further, we believe that implementation of these procedures may well serve to produce an actual cost reduction, and that any added costs will be at least mitigated through the elimination of many of the past problems associated with the billing procedures employed by HUD.

The decision to implement the revised remittance system with the initial lump sum payment to be due on or before September 10, 1982, and monthly remittances starting October 10, 1982, is, as a practical matter irreversible. All internal operations at HUD are now geared for this system and to change the schedule at this time would do irreparable damage to orderly progress

in implementation. HUD did not, in fact, agree to any specific implementation schedule. The Department did agree to provide as much lead time as circumstances would permit, and recognized the industry's stated need for six months. In fact, the proposed rule and preliminary Mortgagee Letter were published approximately four months in advance of the effective date, which was the maximum time it was found possible to provide.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) 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 or export markets. It is estimated that, at any given time, mortgagees hold in excess of $200 million in mortgage insurance premiums that have been collected from mortgagors but not remitted to HUD. Mortgagees would be required by the amendment to remit all such funds they hold by September 10, 1982. Thereafter, on a monthly basis, mortgagees would have to remit MIP payments promptly upon receipt from the borrower. These funds would be invested for the benefit of the Federal Government and would generate a cost avoidance of some $30 million each year. Mortgagees could be expected to be deprived of a like amount. The effect, therefore, would be below the $100 million threshold. Additional costs to the mortgage banking industry have not been estimated at this time because without a finalized system in place, the industry cannot calculate the final cost of converting computerized systems to the monthly remittances. Other costs, such as monthly recordkeeping and increased interest rates at which mortgagees will borrow funds once the MIP funds held in escrow are removed, likewise, cannot be predicted at this time. The initial front end cost for computer conversion may well exceed $100 million; however, the rule will not have an annual effect of that amount.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. A review of the universe of approved mortgagees indicates that only about three percent of them have assets of less than $10 million. These can be considered "small entities" for purposes of this regulation. The number of "small entities" affected, therefore, is not substantial. Further, HUD records indicate that smaller companies hold relatively few insured mortgages and tend to concentrate their business in the conventional mortgage market. Thus, even for those "small entities" affected, the impact is expected to be relatively insignificant.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, that would be affected by the proposed regulation changes: 14.105, 14.108, 14.117, 14.118, 14.119, 14.120, 14.121, 14.122, 14.123, 14.133, 14.140, 14.152, 14.157, 14.161, 14.165.

In developing this final rule a number of technical changes were made in the text of the proposed rule. The language of § 203.265(b) of the proposed rule was changed to specify that the interest on any MIP which are remitted to the Commissioner more than 20 days after the payment date prescribed shall be at a rate set in conformity with the Treasury Fiscal Requirements Manual. Through an oversight amendment to Part 202a (relating to Title I mortgage insurance under Section 8 of the National Housing Act) were omitted and are added as paragraphs 18 and 19 of the final rule.

List of Subjects in 24 CFR

Part 203

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Solar energy.

Part 202a

Mortgage insurance.

Part 203

Housing and community development, Mortgage insurance, Solar energy.

Part 204

Mortgage insurance.

Part 209

Mortgage insurance, War housing.

Part 211

Mortgage insurance, War housing.

Part 221

Condominiums, low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

Part 228

Federally affected areas, Defense housing, Mortgage insurance, Single family housing.

Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

223—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Accordingly, Chapter II of 24 CFR is amended as follows:

§ 203.44 [Amended]

(1) In § 203.44(d), by changing the cross reference from § 203.307 to § 203.269.

(2) By revising §§ 203.260 through 203.270 to read as follows:

§ 203.260 Amount of mortgage insurance premium (MIP).

The mortgagee shall pay to the Commissioner an initial MIP in an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the first year of amortization. After payment of the initial MIP, the mortgagee shall pay to the Commissioner an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the 12-month period peceding each subsequent anniversary date of the beginning of amortization.

§ 203.261 Calculation of MIP.

The amount of any MIP shall be calculated in accordance with the original amortization provisions of the mortgage, without taking into account delinquent payments, prepayments, agreements to postpone payments, or agreements to recast the mortgage.

§ 203.262 Due date of MIP.

The full initial or annual MIP shall be due on the anniversary date of the beginning of amortization.

§ 203.263 Adjustment of initial MIP.

If the Mortgage Insurance Certificate was issued prior to the beginning of amortization, the initial MIP shall be adjusted to include an additional premium from the date of issuance of the Mortgage Insurance Certificate to the date of the beginning of amortization. If the Mortgage Insurance Certificate was issued in the second half of the amortization year, the initial MIP shall be adjusted to include only that part of the premium year from the date of the issuance of the Mortgage Insurance Certificate to the first anniversary date of the beginning of amortization.

§ 203.264 Payment of MIP.

(a) *Method of Payment.* The payment of any MIP under this subpart shall be made to the Commissioner by the mortgagee either in cash or debentures at par plus accrued interest.

(b) *Time of Payment.* Any portion of the MIP received by the mortgagee from the mortgagor on or after September 1, 1982 shall be paid to the Commissioner on or before the tenth day of the month following the month in which it was received, provided that the full initial or annual MIP shall be due on the anniversary date of the beginning of amortization and payable not later than ten days after such date even if not collected by the mortgagee from the mortgagor.

(c) *Payment of Outstanding MIP.* All MIP that have been collected by mortgagees from mortgagors prior to September 1, 1982, but not remitted pursuant to an annual HUD billing shall be remitted to the Commissioner not before September 1, 1982, but not later than September 10, 1982. All annual MIP bills received by mortgagees from HUD prior to September 1, 1982 shall be paid on their specified due dates.

§ 203.265 Mortgagee's Late Charge and Interest.

(a) MIP which are remitted to the Commissioner after the payment dates prescribed by §§ 203.262 and 203.264 shall include a late charge of four percent of the amount paid.

(b) In addition to the late charge provided in paragraph (a), the mortgagee shall pay interest on any MIP which are remitted to the Commissioner more than 20 days after the payment dates prescribed in § 203.264. Such interest rate shall be paid at a rate set in conformity with the Treasury Fiscal Requirements Manual.

§ 203.266 Period covered by MIP.

The initial MIP shall cover the period beginning with the date of the issuance of a Mortgage Insurance Certificate and ending on the next anniversary of the beginning of amortization. Subsequent premium payments shall cover the twelve-month period preceding each subsequent anniversary date.

§ 203.267 Duration of MIP.

The mortgagee shall pay MIP to the Commissioner until the deed to the Commissioner is filed for record or the contract of insurance is terminated.

§ 203.268 Pro rata payment of MIP.

(a) If the insurance contract is terminated before the due date of the initial MIP, the mortgagee shall pay a portion of the MIP prorated from the following dates to the date of termination:

(1) From the beginning of amortization if the Mortgage Insurance Certificate is issued in the first half of the amortization year, or

(2) From the date of the issuance of the Mortgage Insurance Certificate if the Certificate is issued at any time prior to the beginning of amortization or during the second half of the amortization year.

(b) If the insurance contract is terminated after the due date of the initial MIP, the mortgagee shall pay a portion of the current annual MIP prorated from the due date of the last annual MIP to the date of termination.

(c) A pro rata MIP shall not be due or payable where the mortgagee notifies the Commissioner that foreclosure or other action to acquire the property has been completed and that the property will not be conveyed to the Commissioner in exchange for insurance benefits. Any MIP due and paid after the institution of foreclosure or the date the property was otherwise acquired by the mortgagee will be refunded to the mortgagee upon receipt by the Commissioner of the notice from the mortgagee that the property will not be conveyed to the Commissioner.

§ 203.269 Open-end insurance charge.

The amount of any insured open-end advance shall be added to the average outstanding principal obligation of the mortgage for the purpose of determining the amount of MIP as provided in § 203.260 except that the initial additional charge shall be prorated to cover the period beginning with the first day of the month following the issuance of a certificate evidencing the insurance of the open-end advance and ending on the due date of the next MIP.

§ 203.270 MIP in federally impacted areas.

All of the provisions of § 203.260 shall apply to mortgages meeting the eligibility requirements of § 203.43e except that the amount of the premiums specified therein shall be calculated on the basis of one percent in lieu of one-half percent.

§ 203.275 through § 203.279 [Removed]

3. By removing §§ 203.275 through 203.279.

§ 203.305 through § 203.309 [Removed]

4. By removing §§ 203.305 through 203.309.

5. By revising § 203.443, to read as follows:

§ 203.443 Insurance premium.

All of the provisions of §§ 203.260 through 203.269 concerning mortgage insurance premiums, apply to loans insured under § 203.50.

§ 203.444 through 203.446 [Removed]

6. By removing §§ 203.444 through 203.456.

PART 204—COINSURANCE

§ 204.260a through § 204.268 [Removed]

7. By revising § 204.260 to read as follows:

§ 204.260 Mortgage insurance premiums for co-insured mortgages.

All of the provisions of §§ 203.260 through 203.269, concerning mortgage insurance premiums with respect to mortgages insured under 203(b) of the National Housing Act, apply to mortgages covering one- to four-family dwellings to be insured under 203(b) pursuant to the coinsurance authority of 244 of the National Housing Act.

8. By removing §§ 204.260a through 204.268.

PART 209—INDIVIDUAL HOMES; WAR HOUSING MORTGAGE INSURANCE (SEC. 603)

§ 209.51 [Amended]

9. By revising the cross-references in paragraph (a) of § 209.251 as follows:

(a)* * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.

b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.

c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.

d. § 203.275 Amount of annual MIP is removed.

e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.260 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

10. By revising § 209.265 to read as follows:

§ 209.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 211—SINGLE FAMILY PROJECT LOANS; WAR HOUSING MORTGAGE INSURANCE (Sec. 611)

§ 211.25 [Amended]

11. By revising the cross references in paragraph (a) of § 211.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.260 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

12. By revising § 211.265 to read as follows:

§ 211.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 211.251 [Amended]

13. By revising the cross references in paragraph (a) of § 221.251 as follows:
(a) * * *
* * * * *

a. § 203.260 Method of payment of MIP is changed to read: § 203.264 Payment of MIP.
b. § 203.265 Amount of initial MIP is changed to read: § 203.260 Amount of Mortgage Insurance Premium (MIP).
c. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
d. § 203.267 Period covered by initial MIP is changed to read: § 203.266 Period covered by MIP.
e. § 203.268 Adjustment of Initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
f. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
g. § 203.275 Amount of annual MIP is removed.
h. § 203.276 Due date of annual MIP is removed.
i. § 203.277 Duration of annual MIP is changed to read: § 203.267 Duration of MIP.
j. § 203.278 Pro rata payment of MIP is removed.

PART 228—INDIVIDUAL RESIDENCES; NATIONAL DEFENSE HOUSING MORTGAGE INSURANCE (SEC. 903)

§ 228.251 [Amended]

14. By revising paragraph (a) of § 228.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of MIP is removed.
g. § 203.260 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

15. By revising § 228.265 to read as follows:

§ 228.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.201 [Amended]

16. By revising the cross-references in paragraph (a) of § 235.201 as follows:
(a) * * *

a. § 203.265 Amount of initial MIP is changed to read: § 203.260 Amount of Mortgage Insurance Premium (MIP).
b. § 203.268 Adjustment of initial MIP is removed.
c. § 203.275 Amount of annual MIP is removed.
d. § 203.305 Open-end advance subject to open-end charge is changed to read: § 203.269 Open-end insurance charge.
e. §§ 203.306 through 203.309 are removed.
* * * * *

§ 235.203 [Removed]

17. By deleting § 235.203.

§ 202a.251 [Amended]

18. By amending the cross-references in paragraph (a) of § 202a.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.260 Amount of Mortgage Insurance Premium (MIP) is added.

19. By revising § 202a.265 to read as follows:

§ 202a.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the

12-month period following the date on which the premium becomes payable.

Authority: §§ 203(c) and 211 of the National Housing Act, as amended (12 U.S.C. 1701(d), 1715(b)).

Dated: July 9, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-19112 Filed 7-14-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 249

Off-Reservation Treaty Fishing

June 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: These regulations implement the 1982 treaty Indian fishing schedule for sockeye and pink salmon in treaty fishing areas located in waters coming under the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fisheries of the Fraser River System.

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Bldg. A, Olympia, Washington 98502, telephone number (206) 753-9460.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (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 by 209 DM 8.

The Bureau of Indian Affairs published a redesignation table for all parts of 25 CFR Chapter I in the **Federal Register** on March 30, 1982 (47 FR 13326). Therefore, 25 CFR Part 256 was renumbered as 25 CFR Part 249 and all references in this document to the part number are made accordingly.

The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1451 *et seq.*, 25 U.S.C. 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of off-reservation fishing rights secured by the Treaty of Point Elliott, 12 Stat. 927 (1859); Treaty with the Makah, 12 Stat. 939 (1859); and Treaty of Point No Point, 12 Stat. 933 (1859), as affirmed in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 1979). Such treaty Indian fisheries include a sockeye and pink salmon fishery in treaty fishing places in waters coming under the United States Convention with Canada respecting the sockeye and pink salmon fisheries of the Fraser River System.

On February 25, 1982, the International Pacific Salmon Fisheries Commission forwarded to the Governments of Canada and the United States, for the approval required by the Convention, the regulations applicable in Convention waters during the 1982 fishing season. On April 6, 1982, the United States, acting through the Department of State, approved the regulations except as to treaty Indians fishing in accordance with regulations promulgated by this Department providing for the exercise of fishing rights secured by the United States treaties. The International Pacific Salmon Fisheries Commission assumed control over United States Convention waters on June 20, 1982, and the Commission's fishing season in Convention waters begins on July 25, 1982. The instant regulations implement domestic law of the United States to provide treaty Indian tribes the full opportunity to harvest one-half of the United States' share of sockeye salmon in Convention waters in a manner consistent with the United States' obligations to Canada under the Fraser River Convention. The regulations are promulgated by the Department of the Interior to apply only to Indians exercising fishing rights secured to them by treaties with the United States. The all-citizen fisheries are regulated by 50 CFR Part 371, published by the Department of Commerce.

The United States has two primary obligations to Canada under the Fraser River Convention. The first such obligation is to assure the proper escapement of sockeye and pink salmon into the Fraser River. The second obligation is to assure the equal division of the catch between Canadian and United States fishermen fishing in the Convention waters. The United States also has treaty obligations to certain Northwest Indian tribes to assure that such tribes have the full opportunity to harvest one-half of the fish that pass through tribal usual and accustomed fishing areas.

As in the 1981 Fraser River Convention fishery, regulation of the treaty Indian fishery in 1982 will be consistent with fulfilling the United States' obligation to provide the treaty tribes full opportunity to catch one-half of the United States' share and to comply with the United States' obligations to Canada under the Convention. An analysis of data from past fishing seasons has shown that the treaty catch percentage decreases by a significant amount during the period when most of the fish are caught. Therefore, the 1982 fishing schedule (§ 249.17) has been structured to allow the treaty catch percentage to move above 50 percent to approximately 65 percent during the first part of the season in order that the treaty and non-treaty fisheries will each achieve their 50 percent allocation of the United States' share by the end of the season.

The fishing assistance provisions of § 249.15 have been revised in order to clarify who may and who may not participate in treaty Indian fishing under these regulations. The revision prohibits, with specific and limited exceptions, treaty Indians from participating in a treaty Indian fishery at any such time that persons who are not treaty Indians are aboard the fishing vessel or in contact with fishing gear operated from the fishing vessel. The definition for lawful gear (§ 249.12(i)) was changed to include round haul seines. The effective date of applicable provisions of the Washington Administrative Code (§ 249.12(s)) was updated to June 1, 1982. In additon, § 249.20 has been amended to exempt treaty Indians fishing in State Area 7B from the prohibitions of that section when such fishing is conducted pursuant to tribal regulations authorizing a chinook salmon fishery restricted to a seven (7) inch or greater mesh size.

The United States' action and these regulations implement the regulatory system which the United States has used since 1977 to meet its obligations both to Canada and to United States treaty Indians. The Supreme Court approved this regulatory system in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 (1979). This year, as in previous years, the affected treaty tribes will regulate their fisheries concurrently and in a manner consistent with the regulations of the Department.

In order to allow the affected tribes to exercise their treaty fishing rights in a timely manner, these regulations are issued on an emergency basis. Similarly, the Department of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public

interest. These regulations are therefore effective immediately.

The Bureau of Indian Affairs has determined that this rule is not major within the terms of Executive Order 12291 and that it does not have a significant economic effect on a substantial number of small entitles within the terms of the Regulatory Flexibility Act.

An environmental assessment has been completed and it has been concluded that the implementation of a treaty Indian fishery by these regulations is not a major Federal action which would significantly affect the environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author of this document is Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, United States Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, telephone number (206) 753–9460.

List of Subjects in 25 CFR Part 249.

Fisheries, Fishing, Great Lakes, Indians, and Reporting requirements.

Certain sections and paragraphs of 25 CFR Part 249, Subpart B, are revised to read as follows:

PART 249—OFF-RESERVATION TREATY FISHING

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

1. Paragraphs (i) and (s) of § 249.12 are revised to read as follows:

§ 249.12 Definition of terms.

* * * * *

(i) Lawful gear means: any gill net, purse seine, reef net, troll line, beach seine, stake net, or round haul seine, as defined under Washington Administrative Code Chapter 220–16 and 200–47–301 through 304, or under tribal regulations.

* * * * *

(s) Washington Administrative Code means: Only those chapters and sections of the Washington Administrative Code that were in effect as of June 1, 1982.

* * * * *

2. Paragraph (b) of § 249.15 is revised to read as follows:

§ 249.15 Fishing assistance.

* * * * *

(b) Treaty Indians are prohibited from participating in a treaty Indian fishery under this subpart at any such time that persons who are not treaty Indians are aboard the fishing vessel or in contact with fishing gear operated from the fishing vessel, except for enforcement officers as defined in § 249.12(f), Northwest Indian Fish Commission approved or Federal biologists, and persons authorized to assist treaty Indians under § 249.15(a) of this subpart.

* * * * *

3. § 249.17 is revised to read as follows:

§ 249.17 Fishing seasons.

(a) No treaty Indian shall fish for sockeye salmon with nets in United States Convention waters (State Areas 4B, 5, and 6C) from June 20, 1982 to July 18, 1982, both dates inclusive, except for test fisheries in State Areas 4B and 5 from June 20, 1982 to July 17, 1982, if specifically authorized by emergency regulations issued under § 249.18 if this subpart.

(b) No treaty Indian shall fish for sockeye salmon with nets in United States Convention waters (State Areas 6, 6A, 7, 7A, 7B and 7D) from June 20, 1982 to July 24, 1982, both dates inclusive.

(c) No treaty Indian shall fish for sockeye salmon in United States Convention waters in State Areas 4B, 5 and 6C from:

(1) July 19, 1982 to July 24, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Monday to 9:30 a.m. on Saturday.

(2) July 24, 1982 to July 30, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Saturday to 9:30 a.m. on Friday.

(3) July 30, 1982 to August 6, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 a.m. on Thursday.

(4) August 7, 1982 to August 13, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Saturday to 9:30 a.m. on Friday.

(5) August 13, 1982 to August 20, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 a.m. on Thursday.

(6) August 21, 1982 to August 27, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Saturday to 9:00 a.m. on Friday.

(7) August 27, 1982 to September 3, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Friday to 9:00 a.m. on Thursday.

(8) September 4, 1982 to September 10, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Saturday to 9:00 a.m. on Friday.

(d) No treaty Indian shall fish for sockeye salmon in United States Convention waters in State Areas 6, 6A, 7, 7A, 7B and 7D from:

(1) July 25, 1982 to July 30, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Sunday to 9:30 a.m. on Wednesday.

(2) July 30, 1982 to August 6, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 p.m. on Monday.

(3) August 7, 1982 to August 13, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:30 a.m. on Tuesday.

(4) August 13, 1982 to August 20, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:00 p.m. on Monday.

(5) August 21, 1982 to August 27, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:00 a.m. on Tuesday.

(6) August 27, 1982 to September 3, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Friday to 9:00 p.m. on Monday.

(7) September 4, 1982 to September 10, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:00 a.m. on Tuesday.

(e) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye salmon in United States Convention waters lying westerly and northerly of a straight line drawn from Iverson's Dock on Point Roberts to Georgina Point Light at Active Pass, from August 29, 1982 to September 4, 1982, and from October 3, 1982 to October 9, 1982, all dates inclusive.

(f) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye salmon in United States Convention waters lying westerly and northerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary across the east tip of Point Roberts to the East Point Light on Saturna Island from September 5, 1982 to October 2, 1982, both dates inclusive.

(g) The foregoing regulations shall not apply to the following United States Convention waters:

(1) State Areas 6B, 6D and 7C;

(2) Preserves previously established by the Director of Washington Department of Fisheries of the State of Washington for the protection and preservation of other species of food fish.

* * * * *

4. § 249.20 is revised to read as follows:

§ 249.20 Unlawful possession.

No treaty Indian shall possess sockeye or pink salmon on board a fishing vessel which is engaged in a fishery for other species in United States

Convention waters during the times Convention waters are closed to sockeye and pink salmon fishing by the regulations in this subpart, except that this prohibition will not apply after July 24, 1982, to any treaty Indian fishing pursuant to treaty tribe fishing regulations authorizing a chinook salmon fishery in State Area 7B, when such fishery is restricted to a seven inch or greater mesh size.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

June 30, 1982.

[FR Doc. 82-19235 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-02-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning August 1, 1982. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after August 1, 1982, and enables the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation (the "PBGC") issued a final regulation (46 FR 9492 *et seq.*) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). That regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B to the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before February 1, 1982. (29 CFR Part 2619 (1981), 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426).

On May 14, 1982, the PBGC last published rates for plans that terminate on or after June 1, 1982 (47 FR 20761). At this time, changes in the financial and annuity markets have necessitated an increase in the rates used by the PBGC to value benefits. Accordingly, this amendment changes the rates in Appendix B to add a set of interest rates and factors for plans that terminate on or after August 1, 1982. These rates and factors will remain if effect until such time as PBGC publishes another amendment which changes the rates.

As a rule, the rates will be in effect for at least one month. If the rates are to be changed, PBGC will publish an amendment in the **Federal Register**, normally by the 15th of the month prior to the month for which the new rates will be effective. If no change is to be made, no amendment will be published, and the current rates will remain in effect until further notice.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors contained in Appendix B to Part 2619 are applicable to non-multiemployer plans only.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after August 1, 1982, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance and Pensions.

PART 2619—VALUATION OF PLAN BENEFITS IN NONMULTIEMPLOYER PLANS

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 is as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974) as amended by Secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 34 of Appendix B is revised and Rate Set 35 of Appendix B is added to read as follows:

Appendix B.—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "C_v" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date—		Immediate Annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	
34	6-1-82	8-1-82	10.75	1.1000	1.0875	1.0400	7	8
35	8-1-82	.....	11.00	1.1025	1.0900	1.0400	7	8

Henry Rose,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-19199 Filed 7-14-82; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Baltimore* (SSN 704) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS *Baltimore* (SSN 704) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty counsel, Office of the Judge Advocate General, 200 Stovall Street, Navy Department, Alexandria, Virginia 22332. Telephone Number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS *Baltimore* (SSN 704) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2 (k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Baltimore* (SSN 704) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of §706.3, are equally applicable to USS *Baltimore* (SSN 704).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine Safety, Navy Department, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
* *	* *	*
USS *Baltimore*	SSN 704	3.5
* *	* *	*

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21 (a)	Sidelights, arc of visibility; Rule 21 (b)	Stern light, arc of visibility; Rule 21 (c)	Sidelights, distance inboard of ship's sides in meters; § 3 (b), Annex I	Stern light, distance forward of stern in meters; Rule 21 (c)	Forward Anchor light, height above hull in meters; § 2 (k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2 (k), Annex I
*	*	*	*	*	*	*	*	
USS *Baltimore*	704	—	—	209°	4.2	6.1	3.5	1.7 below.
*	*	*	*	*	*	*	*	

(Executive Order 11964; 33 U.S.C. 1605)

Date: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19196 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Stark* (FFG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS *Stark* (FFG 31) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Stark* (FFG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Stark* (FFG 31) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706:

Marine Safety, Navy Department, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
•	•	•
USS *Stark*	FFG 31	1.6
•	•	•

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

USS *Stark* (FFG 31)

3. Table four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
•	•	•
USS *Stark*	FFG 31	2.75
•	•	•

(Executive Order 11964; 33 U.S.C. 1605)

Dated: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19197 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending *is* certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS *Hercules* (PHM 2); USS *Aries* (PHM 5); and USS *Gemini* (PHM 6) are vessels of the Navy, which, due to their special construction and purposes, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as hydrofoil vessels. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply of the different navigational light configurations of these vessels that are not in full compliance with the applicable requirement of the 72 COLREGS.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS *Hercules* (PHM 2), USS *Aries* (PHM 5), and USS *Gemini* (PHM 6) are vessels of the Navy which, due to their special construction and purposes, cannot fully comply with the 72 COLREGS in the following particulars: Rule 23(a)(i) requiring that a power-driven vessel underway shall exhibit a masthead light forward; Rule 30(b) requiring a vessel of less than 50 meters in length, when at anchor, to exhibit an all-round light where it can be seen; Annex I, section 3(b) requiring that on vessels of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights; Annex I, section 9(b) requiring that the all-round

anchor light be so located where it can best be seen, but need not be placed at an impracticable height above the hull.

Full compliance with the aforementioned 72 COLREGS provisions would interfere with certain special functions and features of these hydrofoil vessels as hereinafter described. Full compliance with Rule 23(a)(i) is not possible because hydrofoil vessels have limited space and on these vessels radar installations mounted just forward of the mainmast requiring unobstructed visibility precludes the placement of the masthead light further forward than its present position 3 meters aft of amidships on the mainmast. In addition, the added weight of a separate forward mast for the purposes of locating the masthead light forward of its present position would add additional topside weight to the vessels and, therefore, adversely affect the ability of these vessels to become foilborne while underway. Full compliance with Rule 30(b) and Annex I, section 9(b) is not possible because to display an all-round light anchor light where it can best be seen would require the addition of a structure stepped-out from the mainmast on which the light would be located. Such a stepped-out structure would also add significant topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foilborne while underway. Full compliance with Annex I, section 3(b) is not possible because these hydrofoil vessels must be refueled while underway and since the masthead light must be located on the mainmast, which is located 3 meters aft of amidships for reasons hereinbefore stated, locating the sidelights aft of the masthead light would severely interfere with the ability to refuel these vessels while underway. In addition, locating the sidelights aft of the masthead light would require the installation of a cantilevered structure extending outboard from the vessel and this additional structure would also add additional topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foil borne while underway. The Secretary of the Navy has certified that the aforementioned navigational lights are, therefore, located on these vessels in a manner that provides the closest possible compliance with the applicable 72 COLREGS.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military function.

List of Subjects in 32 CFR Part 706:

Marine Safety, Navy Department, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR THE PREVENTION OF COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following naval vessels to the list of vessels therein to indicate the certifications issued herewith by the Secretary of the Navy:

Vessel	Number	Masthead lights distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(k), Annex I	Forward anchor light, number of; Rule 30 (a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
*	*	*	*	*	*	*			
USS *Hercules*	PHM 2							8.4	
USS *Aries*	PHM 5							8.4	
USS *Gemini*	PHM 6							8.4	
*	*	*	*	*	*	*			

2. Table Four of § 706.2 is amended by adding to the existing paragraph 6 the following vessels for which navigational light certifications are herewith issued by the Secretary of the Navy:

6. The masthead light required by Rule 23(a)(i) is not located in the forepart of the vessel on the following ships:

* * * * *

USS *Hercules* (PHM 2)—3.0 meters aft of amidships

USS *Aries* (PHM 5)—3.0 meters aft of amidships

USS *Gemini* (PHM 6)—3.0 meters aft of amidships

3. Table Four of § 706.2 is amended by adding the following note numbered 21 which reflect navigational light certifications herewith issued by the Secretary of the Navy:

* * * * *

21. On USS *Hercules* (PHM 2), USS *Aries* (PHM 5), and USS *Gemini* (PHM 6), two lights are installed at the same level, one fore and one aft, high on the mast to provide the closest possible compliance to the all-round anchor light visibility required by Rule 30(b) and Annex I, section 9(b).

(Executive Order 11964, 33 U.S.C. 1605)

Dated: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19198 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates to State of Bahrain

AGENCY: Postal Service.

ACTION: Interim regulations with request for comments.

SUMMARY: Pursuant to an agreement with the postal administration of Bahrain, the Postal Service proposes to begin International Express Mail Service with Bahrain effective on August 16, 1982. The interim rate schedules are published below for comment.

EFFECTIVE DATE: August 16, 1982.

Comment Date: Comments must be received on or before August 14, 1982.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: J. Duane Redic, (202) 245-4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual needed to introduce the new service are reproduced below. Accordingly, although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments on international rates and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views, or arguments concerning the interim rates of postage for International Express Mail to Bahrain as shown below.

Because under the agreement with Bahrain Express Mail service to that country is scheduled to begin on August 16, 1982, the rates shown below are being adopted on an interim basis effective August 16, 1982.

In view of the considerations discussed above, the Postal Service hereby adopts the following interim revision of the International Mail Manual.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

Table 7–1. International Express Mail Service—Summary Conditions

Service Offerings

In paragraph 1, Custom Designed Service, add "State of Bahrain," after "Australia,".

Weight Limits

Revise line 4 to read as follows:

4. State of Bahrain and Republic of Korea.	22 pounds.

Table 7–2. International Express Mail Service Standards (From International Exchange Office)

In Table 7–2, add after the line for Belgium a new line which reads "Bahrain, State of" in the "Country of Destination" column, "Second Day" in the "Custom Designed" column, and "Third Day" in the "On Demand" column.

Individual Country Listing

Add after the entry entitled "Parcel Post Bahrain (State of)" the following new entry:

International Express Mail (State of) Bahrain

Conditions for Mailing

Definition of Express Mail Service: See Table 7–1 and 494 for detailed characteristics.

Services Available:

Custom Designed
On Demand

Acceptable Items and Customs Declarations: Contents restricted to the following:

Items Containing

1. Non-dutiable business documents, Business letters, non-negotiable instruments, computer printouts, cancelled checks.

2. Microfilm, microfiche or samples or merchandise without commercial value.

3. Merchandise, advertising materials or any dutiable articles.

Customs Declaration Required

1. None. Endorse items clearly next to address label "Business Papers."

2. Form 2976, identify contents briefly, but completely.

3. Form 2966–A, identify completely and state whether import license (if required) is attached.

Postage Rates

CUSTOM DESIGNED SERVICE [1] [2]

Weight not over	Rate	Weight not over	Rate
Pounds:		Pounds:	
1	$28.00	11	$65.00
2	31.70	12	68.70
3	35.40	13	72.40
4	39.10	14	76.10
5	42.80	15	79.80
6	46.50	16	83.50
7	50.20	17	87.20
8	53.90	18	90.90
9	57.60	19	94.60
10	61.30	20	98.30
		21	102.00
		22	105.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

ON DEMAND SERVICE [2]

Weight not over	Rate	Weight not over	Rate
Pounds:		Pounds:	
1	$20.00	11	$57.00
2	23.70	12	60.70
3	27.40	13	64.40
4	31.10	14	68.10
5	34.80	15	71.80
6	38.50	16	75.50
7	42.20	17	79.20
8	45.90	18	82.90
9	49.60	19	86.60
10	53.30	20	90.30
		21	94.00
		22	97.70

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Areas Served: All points in Bahrain
Weight Limit: 22 lbs. (10 kg.)
Size Limit:
Minimum: 3½" x 5½".
Maximum: Greatest length 36 inches.
Greatest length and girth combined: 78 inches.

Service Standard From International Exchange Office: See Table 7–2.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 82–19205 Filed 7–14–82; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–6–FRL 2165–1]

Approval and Promulgation of Implementation Plans: Approval of Louisiana Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves Louisiana's request to revise its State Implementation Plan (SIP) to include Exxon Chemical Intermediates three compliance schedules at their Baton Rouge facility. These compliance schedules will allow Exxon Chemical to come into compliance with Regulation 22 for the control of hydrocarbon emissions. Two of the compliance schedule plans have been completed and are not discussed in this notice. The third compliance schedule will allow Exxon Chemical to install a vapor recovery system on five benzene tanks and an aromatics vapor recovery project on eight vents; final compliance is required on November 30, 1982. These three schedules are approved on the basis that Exxon's compliance plan meets the requirements of Louisiana's SIP for hydrocarbon controls at the affected facility.

DATE: This action is effective September 13, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to John R. Hepola of the EPA Region 6 Air Programs Branch (address below). Copies of the materials submitted by Louisiana may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401

M Street, S.W., Washington, D.C. 20460
Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270
Air Quality Division, Louisiana Air Control Commission, P.O. Box 44066, Baton Rouge, Louisiana 70804

FOR FURTHER INFORMATION CONTACT: John R. Hepola at the EPA Region 6 address above or call (214) 767–1518 (FTS 729–1518).

SUPPLEMENTARY INFORMATION: Section 110(a)(3)(A) of the Clean Air Act, amended 1977, directs the Administrator to approve revision of an implementation plan applicable to an air quality control region, if he determines the plan has been adopted by the State after reasonable notice and public hearing, and that it includes emission limitations, schedules, and timetables for compliance with such limitations and such other measures as may be necessary to insure attainment and maintenance of the applicable air quality standard. The regulation which EPA promulgated to implement this portion of the Air Act are set forth at 40 CFR Part 51.

The compliance schedules being approved today apply to Exxon Chemical Intermediates vent abatement project titled BELA–5 (completed in September, 1981), an aromatics floating roof project (completed in December, 1981), and an aromatics tank and vent vapor collection project (to be completed in November, 1982) located at their Baton Rouge, Louisiana facility. On September 25, 1980, the Louisiana Air Control Commission adopted, after adequate notice and public hearing, these three compliance schedules. The aromatics tank and vent vapor collection project compliance schedule will provide that Exxon will be in compliance with Louisiana Regulation 22 for the control of hydrocarbons by November 30, 1982.

Regulation 22 was approved by EPA on February 10, 1982 (at 47 FR 6015) as part of Louisiana's SIP to demonstrate attainment of the ozone National Ambient Air Quality Standard (NAAQS) by December 31, 1982. Exxon Chemical Intermediates will install an aromatics vapor recovery project on eight vents and a vapor collection system on five small benzene storage tanks at their Baton Rouge, Louisiana facility in order to meet the third compliance schedule.

The compliance schedules were submitted to EPA on October 23, 1980 by the Governor. EPA reviewed [1] the schedules and supporting documentation, and finds that the State's submittal of compliance schedules includes legally enforceable increments of progress, certification of a public hearing and requirements for a determination of final compliance by facility inspection. Based upon these findings, EPA is today approving these compliance schedules as a revision to the Louisiana State Implementation Plan.

EPA's review of the materials submitted has shown that it is a noncontroversial, nonmajor SIP revision. Because EPA does not anticipate that this rulemaking will generate adverse public comments, the compliance schedules for Exxon Chemical Intermediates are being approved today without a prior proposed rulemaking. The public should be advised that this action will be effective September 13, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a State action; it will impose no new regulatory requirements. In addition, this action only applies to one facility.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it merely approves a state action. It imposes no regulatory requirements.

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

Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject to today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

[1] EPA Evaluation Report of Louisiana's request for variance for Exxon Chemical Company, dated June, 1982. This report is available for public inspection during normal business hours at the EPA libraries listed in the address section of the notice.

List of Subjects in 40 CFR Part 52

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

Dated: July 8, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart T of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding paragraph (d).

§ 52.980 Compliance schedules.

* * * * *

(d) The compliance schedules below for Exxon Chemical Intermediates are approved as a revision to the plan pursuant to 51.6 and 51.15 of this chapter. The regulations cited are an approved regulation of the State.

Source and location	Regulation	Final compliance date
Exxon Chemical Intermediates, Baton Rouge:		
A. BELA—5 vent abatement project.	22.8	Sept. 1, 1981.
B. Aromatics floating roof project.	22.3	Dec. 1, 1981.
C. Aromatics tank and vent vapor collection project.	22.3, 22.8	Nov. 30, 1982.

[FR Doc. 82-19188 Filed 7-14-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 52 and 81

[A-8-FRL 2164-3]

Approval and Promulgation of State Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; Revisions to the Montana Plan and Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving two revisions to the Montana State Implementation Plan. These revisions, submitted on April 21, 1982, and April 22, 1982, modify the State's open burning regulation, and redesignate the Anaconda area from nonattainment to attainment for sulfur dioxide (SO_2).

DATES: This action will be effective on September 13, 1982 unless notice is received by August 16, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Montana Office, Federal Building, 301 S. Park, Helena, MT 59626

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 110 L Street, N.W., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT:

Tom Harris, Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, MT 59626, (406) 449–5486.

SUPPLEMENTARY INFORMATION:

Redesignation of Anaconda Area

The only significant source of sulfur dioxide (SO_2) in the Anaconda area was the Anaconda Company copper smelter. This plant ceased operation on July 1, 1980, and in October 1980, the Company publicly announced that it was permanently closing the smelter.

The State's request to redesignate the Anaconda area was accompanied by a set of ambient data for sulfur dioxide covering the period July 1, 1980, through May 19, 1981. The data were obtained from the State's Lincoln School site in Anaconda. The data show that the maximum 24-hour concentration measured during that period was 0.023 parts per million (ppm). This value is six times less than EPA's primary standard of 0.14 ppm for 24 hours. The mean of the monthly mean concentrations for the period is 0.005 ppm. Comparing this value to EPA's primary annual standard of 0.03 ppm, it is also lower by a factor of six.

The State discontinued SO_2 monitoring in Anaconda on May 20, 1981. On the basis of the data obtained between July 1980 and May 1981, the State concluded that there is little or no chance that any ambient air quality standards violations would be observed as a result of emissions from existing sources, and that the cost of operating the station for a continued period of time was not warranted. EPA agrees with this conclusion and is waiving the requirement ("Section 107, Redesignation Criteria", June 12, 1979, Richard Rhoads, Director, Control Programs Development Division), for four quarters of monitoring data.

Revision of Open Burning Regulation

The State has revised its open burning regulation. Under the revised regulation, minor open burners (as defined in the regulation), will not be required to get a permit for every open burn, but will be required to burn only during the months of March through August. Major burners will be required to employ Best Available Control Technology (as defined in the regulation).

These changes in the State's regulation are primarily procedural in nature and are expected to have little, if any, impact on existing air quality.

Action

EPA today is approving the revisions and the redesignation. The public is advised that this action will be effective 60 days from the date of this notice. However, if we receive written notice within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

(Sections 110 and 107 of the Clean Air Act (42 USC 7410 and 7404))

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

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

Subpart BB—Montana

1. In § 52.1370 paragraph (c)(11) is added as follows:

§ 52.1370 Identification of plan

* * * * *

(c) * * *

(11) On April 21, 1982, and April 22, 1982, Montana submitted revisions to the open burning regulation and redesignated the Anaconda area from nonattainment to attainment for sulfur dioxide (SO_2).

2. In § 52.1375 the table is amended as follows:

§ 52.1375 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Billings Intrastate:							
a. Yellowstone County	c	c	a	c	b	b	f
b. Billings	e	e	a	c	b	b	f
c. Laurel	c	c	e	e	b	b	f
d. Remainder AQCR	c	c	a	c	b	b	b
Great Falls Intrastate:							
a. Great Falls	e	e	c	c	b	b	b
b. Remainder AQCR	b	b	c	c	b	b	b
Helena Intrastate:							
a. Anaconda	b	b	h	h	b	b	b
b. East Helena	e	e	e	e	b	b	b
c. Butte	e	g	b	b	b	b	b
d. Remainder AQCR	b	b	b	b	b	b	b
Miles City Intrastate:							
a. Colstrip	e	g	b	b	b	b	b
b. Remainder AQCR	b	b	b	b	b	b	b
Missoula Intrastate:							
a. Missoula	e	e	b	b	b	b	b
b. Columbia Falls	e	e	b	b	b	b	b
c. Remainder AQCR	c	c	b	b	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. May 31, 1977.

e. December 31, 1982.
f. Action on the SIP for this nonattainment area has been delayed.
g. Eighteen-month extension granted.
h. May 19, 1981.

Note.—Footnotes which are italic are prescribed by the Administrator because the plans do not provide a specific date, or the date provided is not acceptable.

Source.—Subject to plan requirements and attainment dates established under section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remains obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.325 (1978).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

.In § 81.327 the Montana SO_2 table is amended as follows:

§ 81.327 Montana

* * * * *

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Laurel Area	X			
East Helena Area	X	X		
Anaconda Area				X
Rest of State				X

[FR Doc. 82-19189 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

Medicaid Program; Miscellaneous Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule, correction.

SUMMARY: This document corrects an error in a correction notice published on August 19, 1981 (46 FR 42067). That correction notice which contained miscellaneous corrections to the Medicaid regulations stated an incorrect effective date.

EFFECTIVE DATE: The correction published on August 19, 1981 became effective on September 29, 1978.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (301) 594-9636.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to correct a correction notice that was published on August 19, 1981. That notice referred to Medicaid regulations at 42 CFR 435.831, which were published as final regulations on April 11, 1980 (45 FR 24878). The correction notice reinstated three subparagraphs that were inadvertently omitted from § 435.831(a) regarding eligibility determinations of medically needy individuals.

In the August 19, 1981 notice (46 FR 42067), we stated that the effective date of the regulations was September 29, 1979. That date should have been September 29, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Approved: July 7, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-19000 Filed 7-14-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-Year) flood elevations for selected location are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Unincorporated areas of Ashley County (FEMA-6254)	Fountain Creek	Just upstream of Arkansas Highway 81	*162
		Snake Creek	Approximately 600 feet downstream of the gravel road that is located about 0.75 miles upstream of the confluence of Snake Creek Tributary 1.	*93
			Just upstream of the gravel road that is located about 0.61 miles upstream of the confluence Snake Creek Tributary 5.	*121
		Snake Creek Tributary 1	Just upstream of the gravel road that is located about 0.52 miles upstream of the confluence with Snake Creek.	*94
		Snake Creek Tributary 2	Just upstream of the gravel rosd that is located about 0.41 miles upstream of the confluence with Snake Creek.	*97
		Snake Creek Tributary 3	Just upstream of a county road that is located about 1.50 miles upstream of the confluence with Snake Creek.	*127
		Snake Creek Tributary 5	Approximately 200 feet upstream of Arkansas Highway 133.	*135
		Big Brushy Creek	Approximately 400 feet upstream of the Rock Island and Pacific Railroad.	*120
			Approximately 500 feet downstream of Arkansas Highway 133.	*126
		Bell Branch	Approximately 400 feet upstream of Marais Saline Road.	*97
		Maxwell Creek	Just downstream of the asphalt road that is located about 1.45 miles upstream of the confluence with Big Brushy Creek.	*116
		Big Brushy Creek Tributary 1	Just upstream of the gravel road that is located about 0.44 miles upstream of the confluence with Big Brushy Creek.	*147
		Big Brushy Creek Tributary 2	Approximately 0.38 miles upstream of the confluence with Big Brushy Creek.	*134
		Big Brushy Creek Tributary 3	Approximately 400 feet downstream of the gravel road that is located about 1.04 miles upstream of the confluence with Big Brushy Creek.	*120
		Little Brushy Creek	Just upstream of Hancock Road	*108
			Just upstream of Arkansas Highway 133	*131
		Little Brushy Creek Tributary 1	Just upstream of Arkansas Highway 133	*130
		Little Brushy Creek Tributary 2	Just downstream of the asphalt road that is located about 0.43 miles upstream of the confluence with Little Brushy Creek.	*134
		Middle Fork, West Creek	Just upstream of U.S. Highway 82	*144
		Middle Fork Tributary	Just downstream of U.S. Highway 82	*147
		West Fork, West Creek	Just downstream of the asphalt road that is located 1,100 feet upstream of the confluence with Middle Fork West Creek.	*147
		East Fork, West Creek	Just upstream of U.S. Highway 82	*147
			Just upstream of Arkansas Highway 52	*170
Maps available for inspection at Ashley County Judge's Office, County Courthouse for Ashley, Hamburg, Arkansas 71646.				
Arkansas	Unincorporated areas of Lonoke County (FEMA-6254).	Fourmile Creek	Just upstream of Arkansas Highway 319	*228
			Just upstream of Arkansas Highway 321	*243
			Just downstream of Arkansas Highway 5	*296
			Just upstream of Lonoke—Pulaski County Line	*313
		Magness Creek	Just upstream of County Road	*240
			Just upstream of County Line	*264
			Just upstream of Arkansas Highway 5	*309
		Hudson Branch Creek	Just upstream of County Road	*243
			Just upstream of Arkansas Highway 38	*262
			Just upstream of East Main Street	*287
		White Oak Branch	Just downstream of First Street	*263
			Just upstream of U.S. Highway 67, 167	*277
			Just upstream of Arkansas Highway 5	*287
		Bayou Two Prairie Near Cabot	Just upstream of First Street	*266
			Just upstream of Arkansas Highway 367	*266
			Just upstream of U.S. Highway 67, 167	*271
		Bayou Two Prairie Tributary Near Cabot.	Just upstream of Arkansas Highway 89	*287
		North Bayou	Just upstream of Scroggins Street	*221
			Just upstream of Arkansas Highway 161	*224
		Bayou Two Prairie Near Carlisle	Just upstream of Arkansas Highway 13	*215
			Just upstream of U.S. Highway 70	*218
		Bayou Meto	Just upstream of U.S. Interstate 40	*238
			Just upstream of County Line	*245
		Bayou Two Prairie Near Lonoke	Just upstream of Arkansas Highway 31	*227
			Just upstream of the corporate limits	*228
		Pack Branch	Just upstream of Dismukes Avenue	*230
Maps available for inspection at the Lonoke County Judge's Office, County Courthouse, Lonoke, Arkansas 72081.				
Arkansas	Unincorporated areas of Saline County (FEMA-6254)	Saline River	Just upstream of Highway 291	*252
			Just downstream of County Road 27	*264
			Just upstream of Chicago Rock Island and Pacific Railroad.	*281
			Just upstream of Interstate Highway 30	*286
		Alum Fork Saline River	Just downstream of County Road	*299
		Cedar Creek	Just downstream of County Road 195	*498
			Just upstream of County Road 59	*550

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of County Road	*568
			Just downstream of County Road	*566
		Middle Fork Saline River	Approximately 630 feet upstream of County Road 59	*506
			Approximately 300 feet downstream of County Road 59.	*504
			Approximately 950 feet downstream of County Road 57.	*481
		Mill Creek	Lake Cortez	*539
			Approximately 330 feet upstream of downstream County Limits.	*539
		North Fork Saline River	Approximately 1,300 feet upstream of State Highway 5	*300
		Hurricane Creek	Just upstream of Missouri Pacific Railroad	*350
			Just downstream of County Road 43	*356
			Just downstream of Interstate Highway Service Road	*371
			Just upstream of Interstate Highway Service Road	*373
		Fourch Creek	Just upstream of Cross Section A, At mile 22.54 above mouth, approximately 800 feet upstream of the location in alignment with County Road 83 extended.	*321
			Just upstream of County Line Road	*489
			Just upstream of County Road 35	*532
		Otter Creek	At Cross Section A just upstream of the corporate limits of Shannon Hills.	*319
			At County Road 37	*330
			Approximately 130 feet downstream of County Road 37.	*332
		Crooked Creek	Approximately 150 feet upstream of State Highway 111.	*316
			Approximately 250 feet downstream of Missouri Pacific Railroad.	*322
			Just downstream of County Road 612	*336
		Lorance and Dry Creek	Just upstream of the upstream crossing of U.S. Highways 65 and 167.	*248
			Approximately 400 feet downstream of County Road 215.	*266
			Just upstream of County Road 204 (Chicot Road)	*283
			Just downstream of County Road 31 (Shannon Hills Road).	*297
Maps available for inspection at Saline County Judge's Office, County Courthouse, Benton, Arkansas 72015.				
Colorado	Lamar (city), Prowers County FEMA-6254	Arkansas River	Approximately 400 feet west of the intersection of Moyer Street and Fifth Street.	*3,615
		Willow Creek	Downstream side of the intersection of First Street and the channel.	*3,631
			Downstream side of the intersection of Woodland Lane and channel.	*3,651
			Intersection of southernmost corporate limits and channel.	*3,666
Maps available for inspection at City Surveyor's Office, 104 E. Parmenter, Lamar, Colorado.				
Connecticut	Darien, town, Fairfield County (Docket No. FEMA-6196).	Long Island Sound	Five Mile River from confluence with Long Island Sound to approximately 960 feet north of Davis Lane extended.	*15
			Confluence of Five Mile River to Contentment Island Road extended.	*17
			Scotts Cove Shoreline from Contentment Island Road extended to East Osceola Drive extended.	*15
			Scotts Cove Shoreline from East Osceola Drive extended to Great Island.	*16
			Great Island to Hay Island	*17
			Hay Island to Holly Pond	*17
			Holly Pond entire shoreline from confluence of Noroton River to Brush Island Road extended.	*15
Maps available for inspection at the Office of Planning and Zoning, and Department of Public Works, Town Hall, 719 Boston Post Road, Darien, Connecticut.				
Connecticut	Wilton, town Fairfield County (Docket No. FEMA-6124).	Norwalk River	Downstream corporate limits	*123
			Upstream P & E Bridge	*143
			Upstream Wolfpit Road	*158
			Confluence of Comstock Brook	*186
			Upstream U.S. Route 7 (First Crossing)	*208
			Upstream Cannon Road	*226
			Upstream Seely Road	*245
			Downstream Old Mill Road	*271
			Approximately 3,400' upstream of Old Mill Road	*303
			Approximately 420' downstream of Old U.S. Route 7	*334
			Upstream corporate limits	*344
		Comstock Brook	Confluence with Norwalk River	*186
		Upstream of Lovers Lane	*231	
			Upstream of Private Road	*263
			Downstream of Middlebrook Farm Road	*310
			Upstream of Nod Hill Road	*344
			Approximately 3,600' upstream Nod Hill Road	*363
			Approximately 7,150' upstream Nod Hill Road	*425

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Branch Saugatuck River	First Footbridge (Downstream)	*109
			Downstream Abandoned Bridge	*130
			Upstream State Route 53	*145
			Upstream corporate limits	*159
			Approximately 200' upstream of upstream corporate limits.	*161
		East Branch Silvermine River	Downstream corporate limits	*489
			Upstream Bald Hill Road	*516
			Downstream Snowberry Lane	*547
			Upstream corporate limits	*561
Maps available for inspection at the Town Clerk's Office, Town Hall, 238 Danbury Road, Wilton, Connecticut.				
Illinois	(Uninc.) Boone County (Docket No. FEMA-6254)	Kishwaukee River	About 4,100 feet downstream of Newburg Road	*729
			Just downstream of Stone Quarry Road	*755
			About 200 feet downstream of Poplar Grove Road	*763
			At County Line Road	*779
		North Kinnikinnick Creek	Just upstream of Chrysler Road	*828
			Just upstream of McCurry Road	*842
			Just upstream of Rockton Road	*862
			Just upstream of Free Church Road	*869
			Just upstream of Grade School Road	*931
			About 2,200 feet upstream of Grade School Road	*933
		South Kinnikinnick Creek	At downstream county boundary	*811
			About 100 feet downstream of Conservation Area Road.	*855
			About 200 feet upstream of North Boone School Road (near Caledonia Road).	*878
			About 500 feet upstream of Livingston School Road	*905
			Just downstream of North Boone School Road (upstream of Livingston School Road).	*917
		Beaver Creek	About 3,600 feet downstream of North Road	*735
			Just upstream of Riverside Road	*785
			Just upstream of Orth Road	*821
			Just downstream of Hunter Road	*898
		Mosquito Creek	At mouth	*767
			Just downstream of Reed's Crossing Road	*808
		Piscasaw Creek	About 300 feet downstream of Lawrence Road	*764
			Just upstream of Squaw Prairie Road	*775
			About 500 feet upstream of Woodstock Road	*788
		Coon Creek	At Chicago and North Western Railroad	*765
			About 5,500 feet upstream of Garden Prairie Road	*775
		Tributary A	At mouth	*753
			About 200 feet downstream of Chicago and North Western Railroad.	*758
			About 250 feet upstream of Chicago and North Western Railroad.	*767
			Just downstream of Interstate 90	*786
		Tributary D	At mouth	*816
			Just upstream of Orth Road	*821
			About 5,650 feet upstream of Orth Road	*845
Maps available for inspection at the City-County Planning Commission, Boone County Courthouse, Belvidere, Illinois.				
Illinois	(C) Lockport, Will County (Docket No. FEMA-6224)	Milne Creek	At mouth at Illinois and Michigan Canal	*580
			Just upstream of Jefferson Street	*607
			Just downstream of Division Street	*656
		Fiddyment Creek	Just downstream of State Street	*593
			Just downstream of Hamilton Street	*598
			About 0.31 mile upstream of Hamilton Street	*605
Maps available for inspection at the City Clerk's Office, City Hall, 222 East 9th Street, Lockport, Illinois.				
Illinois	(V) Plainfield, Will County (Docket No. FEMA-6224)	Du Page River	About 1.1 miles downstream of U.S. Route 30	*599
			About 200 feet downstream of State Route 59	*605
			About 1.2 miles upstream of confluence of East Norman Drain.	*612
		West Norman Drain	At mouth at Du Page River	*607
			Just upstream of Van Dyke Road	*614
			About 0.4 mile upstream of Elgin, Joliet and Eastern Railway (near Van Dyke Road).	*623
		Springhole Creek	About 100 feet upstream of Old Indian Boundary Line Road.	*608
			About 0.27 mile upstream of Old Indian Boundary Line Road.	*611
		East Norman Drain	Within corporate limits	*607
		Lily Cache Creek	Just upstream of Lockport Road	*598
			About 0.28 mile upstream of Lockport Road	*599
Maps available for inspection at the Clerk's Office, Village Hall, 1400 North Division Street, Plainfield, Illinois.				
Illinois	(V) Winslow, Stephenson County (Docket No. FEMA-6224).	Pecatonica River	Within corporate limits	*782
		Indian Creek	Within corporate limits	*782
Maps available for inspection at the Post Office, Winslow, Illinois.				
Iowa	(Uninc.) Black Hawk County (Docket No. FEMA-6224).	Crane Creek	About 1,000 feet downstream of Nesbit Road	*941
			About 300 feet upstream Pilot Grove Road	*952
		Elk Run Creek	About 800 feet downstream of South Elk Run Road	*843
			About 100 feet upstream of East Donald Street	*876

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Miller Creek	At mouth	*822
			About 0.50 mile upstream of Miller Creek Road	*829
		Poyner Creek	Just upstream of Gilbertville Road	*836
			Just downstream of Young Road	*845
		Cedar River	At downstream county boundary	*804
			At confluence of Poyner Creek	*828
			About 0.4 mile downstream of confluence of Beaver Creek.	*870
			About 3.0 miles upstream of West Cedar-Wapsi Road	*884
		West Fork Cedar River	At mouth	*879
			At upstream county boundary	*890
		Black Hawk Creek	About 4.3 miles downstream of Hudson Road	*871
			About 1,400 feet downstream of Zaneta Road	*890
			Just downstream of Grundy Road	*900
		Wolf Creek	At mouth	*814
			At La Porte City corporate limits	*815
		Shallow Flooding (overland flow from Wolf Creek).	Along Illinois Central Gulf Railroad (about 0.5 mile east of City of La Porte City corporate limits).	*815
			At intersection of Bishop Road and City of La Porte City corporate limits.	*820
Maps available for inspection at the County Zoning Administrator's Office, Russell-Lampson Building, Waterloo, Iowa.				
Iowa	(C) Neola, Pottawattamie County (Docket No. FEMA-6247).	Mosquito Creek	Just upstream of confluence with Neola Creek	*1,088
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,095
			About 1,300 feet upstream of Front Street	*1,097
		Neola Creek	About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,092
			About 1,400 feet upstream of Pearl Street	*1,100
Maps available for inspection at the City Hall, Neola, Iowa.				
Iowa	(C) Palo, Linn County (Docket No. FEMA-6224)	Cedar River	About 180 feet upstream of confluence of Dry Creek	*742
			About 1,100 feet downstream of confluence of Dry Creek.	*742
		Dry Creek	About 1,500 feet downstream of First Street	*742
			Just downstream of First Street	*744
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*750
Maps available for inspection at the City Hall, Palo, Iowa.				
Kansas	(C) Galva, McPherson County (Docket No. FEMA-6224).	Galva Drain	About 800 feet downstream of McPherson Street	*1,535
			Just upstream of Main Street	*1,541
			Just upstream of Mulberry Street	*1,543
			About 1,250 feet upstream of Fourth Street	*1,545
Maps available for inspection at the City Hall, Galva, Kansas.				
Kansas	(C) Garfield, Pawnee County (Docket No. FEMA-6224).	Arkansas River Tributary (Garfield Drain).	About 1,700 feet upstream of Atchison, Topeka and Santa Fe Railway.	*2,071
			Just upstream of Pawnee Street	*2,072
			Just downstream of Sherman Street	*2,073
Maps available for inspection at the City Hall, Garfield, Kansas.				
Kansas	(Uninc.), Lyon County, (Docket No. FEMA-6224)	Neosho River	About 2.0 miles downstream of confluence with Dry Creek.	*1,073
			Just upstream of U.S. Highway 50	*1,100
			Just upstream of Burlingame Road	*1,111
			Just upstream of County Road 412	*1,136
			About 0.32 mile upstream of County Road 413	*1,154
		Cottonwood River	At mouth	*1,083
			At Kansas Turnpike	*1,123
		Dow Creek	At mouth	*1,117
			Just downstream of Highway 99	*1,128
			Just upstream of Highway 99	*1,130
		Eagle Creek	About 11,500 feet downstream of Highway 99	*1,157
			About 400 feet upstream of Highway 99	*1,174
			Just upstream of County Road (about 2,300 feet upstream of confluence of outlet from Olpe Lake).	*1,190
			About 800 feet upstream of County Road (about 6,550 feet upstream of confluence of outlet from Olpe Lake).	*1,193
		Pester Creek	Just downstream of County Road 412	*1,135
			About 3,800 feet upstream of Sycamore Street	*1,160
		Dry Creek	At mouth	*1,075
			Just downstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,092
			Just upstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,095
		Allen Creek	At Kansas Turnpike	*1,123
			About 25,000 feet upstream of Kansas Turnpike	*1,138
Maps available for inspection at the Lyon County Courthouse, Emporia, Kansas.				
Maryland	Charlestown, Town, Cecil County (Docket No. FEMA-6254).	Chesapeake Bay (Tidal Flooding affecting Northeast River).	Entire shoreline within the Town of Charlestown	*12
Maps available for inspection at the Town Hall, Charlestown, Maryland.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.), Comstock Kalamazoo County (Docket No. FEMA-6224).	Kalamazoo River	Just upstream of Sprinkle Road	*766
			Just downstream of of Morrow Lake Dam	*769
			Just upstream of Morrow Lake Dam	*776
			Just upstream of 35th Street bridge	*779
			At upstream corporate limits	*784
		Comstock Creek	Mouth at Kalamazoo River	*768
			About 140 feet downstream of East Michigan Avenue	*773
			Just downstream of dam near Conrail	*779
			Just upstream of dam near Conrail	*792
			About 100 feet downstream of Oran Avenue	*792
			About 40 feet upstream of Oran Avenue	*797
			Just upstream of dam near Oran Avenue	*810
			Just downstream of East Main Street	*824
	Maps available for inspection at the Town Hall, 6138 King Highway, Comstock, Michigan.			
Michigan	(C), Lincoln Park Wayne County (Docket No. FEMA-6052).	South Branch Ecorse Creek	About 350 feet upstream Fort Street	*583
			About 700 feet upstream Hazel Avenue	*586
		North Branch Ecorse Creek	At confluence of South Branch Ecorse Creek	*578
			Just downstream Southfield Road	*581
			About 150 feet upstream Interstae 75	*587
			About 100 feet upstream Conrail	*590
			About 130 feet upstream Frank Avenue	*592
	Maps available for inspection at the Clerk's Office, City Hall, 1355 Southfield Road, Lincoln Park, Michigan.			
Missouri	(C), Marthasville, Warren County (Docket No. FEMA-6247).	Tuque Creek Tributary	Just downstream of the Missouri, Kansas, Texas Railroad.	*495
			About 1050 feet upstream of No. 4 Street	*496
	Maps available for inspection at the City Hall, P.O. Box 21, Marthasville, Missouri.			
Missouri	(C), Winfield, Lincoln County (Docket No. FEMA-6224).	Mississippi River	At Winfield	*448
		McLean Creek	About 0.5 mile downstream of Whiteside Street	*446
			About 0.34 mile upstream of State Highway 79	*453
	Maps available for inspection at the City Hall, P.O. Box 155, Winfield, Missouri.			
New Jersey	Deptford, township, Gloucester County (Docket No. FEMA-6254).	Delaware River (Big Timber Creek and South Branch Big Timber Creek).	Downstream Corporate Limits	*10
			Almonessen Road	*10
			Approximately 5,000' upstream Almonessen Road	*11
			Upstream Lower Landing Road	*17
			Upstream Corporate Limits	*18
	Maps available for inspection at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey.			
New Jersey	Hoboken, city, Hudson County (Docket No. FEMA-6254).	Upper New York Bay	Entire shoreline of the Hudson River within the corporate limits.	*10
	Maps available for inspection at the City Hall, Washington and First Streets, Hoboken, New Jersey.			
New Jersey	Somers Point, city, Atlantic County (Docket No. FEMA-6254).	Great Egg Harbor Bay	Shoreline within corporate limits	*9
	Maps available for inspection at the Municipal Building, Shore Road, Somers Point, New Jersey.			
New Jersey	Stanhope, borough, Sussex County (Docket No. FEMA-6254).	Musconetcong River	Downstream Corporate Limits	*711
			Approximately 180 feet downstream of Interstate Route 181 and U.S. Route 206 connector.	*731
			Houdaille Road (upstream	*742
			Approximately 610 feet upstream of Houdaille Road	*751
			Approximately 1,600 feet upstream of Houdaille Road	*767
			Upstream of dam located upstream of abandoned railroad crossing downstream of Waterloo Road.	*786
			Approximately 550 feet upstream of Waterloo Road	*796
			Approximately 1,070 feet upstream of Waterloo Road	*811
			Downstream of dam located downstream of Furnace Street.	*824
			Furnace Street (upstream side)	*837
			Downstream of U.S. Route 206	*853
			Upstream of Lake Musconetcong Dam	*862
			Upstream Corporate Limits	*864
	Maps available for inspection at the Municipal Building, 77 Main Street, Stanhope, New Jersey.			
New Jersey	Washington, township, Gloucester County (Docket No. FEMA-6254).	South Branch Big Timber Creek	Downstream corporate limits	*18
			Approximately 200' upstream West Church Street	*24
			Approximately 3,600' upstream of West Chruch Street	*25
			Upstream side of Dam No. 2	*45
			Upstream side of Dam No. 3	*68
			Upstream side of Dam No. 4	*85
			Approximately 3,460' upstream of Atlantic City Expressway.	*98
			Upstream side of Redwood Street	*125
		Mantua Creek	Upstream of Delsea Drive	*67
			Approximately 1,500' downstream of Green Tree Road	*81
			Upstream of Fish Pond Road	*111
		Duffield Run	Downstream corporate limits	*74
			Downstream of Green Tree Road	*84

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,320' upstream of Kandle Lake Dam	*105
Maps available for inspection at the Municipal Building, Trainersville, New Jersey.				
New York	Great Neck, village, Nassau County (Docket No. FEMA-6224).	Manhasset Bay	Shoreline from the Kings Point/Great Neck corporate limits to approximately 170 feet south of Vista Hill Road.	*16
			Shoreline from approximately 170 feet south of Vista Hill Road to the Great Neck/Kensington corporate limits.	*15
		Little Neck Bay	Shoreline from the Kings Point/Great Neck corporate limits to Old Pond Road.	*13
Maps available for inspection at the Municipal Building, 61 Baker Hill Road, Great Neck, New York.				
New York	Palatine Bridge, village, Montgomery County (Docket No. FEMA-6254).	Mohawk River	Downstream corporate limits	*300
			Upstream corporate limits	*302
Maps available for inspection at the Village Office, Route 5, Palatine Bridge, New York.				
New York	Piermont, village, Rockland County (Docket No. FEMA-6254).	Hudson River	Shoreline from approximately 0.18 mile north of Orchard Terrace (extended) to a point 0.64 mile southwest of Ferry Road (extended).	*10
Maps available for inspection at the Office of the Village Clerk, Village Hall, 478 Piermont Avenue, Piermont, New York.				
New York	Rockville Centre, village, Nassau County (Docket No. FEMA-6247).	Mill River	Entire shoreline within community	*7
Maps available for inspection at the Village Hall, One College Place, Rockville Centre, New York.				
New York	Russell Gardens, village, Nassau County (Docket No. FEMA-6254).	Russells Creek	Approximately 20 feet downstream of Clent Road	*74
			Approximately 265 feet upstream of Clent Road	*81
			Upstream corporate limits	*115
Maps available for inspection at the Village Hall, Six Tain Drive, Russell Gardens, New York.				
New York	Sag Harbor, village, Suffolk County (Docket No. FEMA-6254).	Sag Harbor Bay (Area of Little Northwest Creek).	From confluence with Sag Harbor Bay corporate limits	*10
		Sag Harbor Bay (Area of Sag Harbor Cove).	Shoreline from Bay Street to 400 feet south of extended Redwood Road.	*11
			Shoreline from 400 feet south of extended Redwood Road to confluence of Ligonee Brook.	*9
		Sag Harbor Bay (Area of Ligonee Brook).	Shoreline from confluence with Sag Harbor Cove to corporate limits.	*9
Maps available for inspection at the Village Hall, Main Street, Sag Harbor, New York.				
New York	The Branch, village, Suffolk County (Docket No. FEMA-6254).	Northeast Branch Nissequogue River.	Downstream corporate limits	*35
			Approximately 320 feet downstream of Hauppaque Road.	*40
			Upstream corporate limits	*46
Maps available for inspection at the residence of the Mayor, 18 Cambridge Street, Smithtown, New York.				
Ohio	(C), Sidney, Shelby County (Docket No. FEMA-6254)	Great Miami River	About 0.3 mile downstream of Chessie System	*924
			Just upstream of Gearhart Road	*937
			About 0.8 mile upstream of confluence of Tawawa Creek.	*947
		Tawawa Creek	About 0.27 mile upstream of Riverside Drive	*946
			Just upstream of Civic Park Road	*956
			About 0.68 mile upstream of Civic Park Road	*968
Maps available for inspection at the City Manager's Office, City Hall, 201 West Poplar Street, Sidney, Ohio.				
Oklahoma	City of Seminole, Seminole County, (FEMA 6243)	Wewoka Creek	Just upstream of Harvey Road	*855
			Just upstream of Ideal Street	*865
		Carter Creek	Just upstream of Strother Avenue	*861
			Just upstream of State Highway 9	*878
		Tributary No. 1 of Carter Creek	Just upstream of U.S. Highway 270	*860
		Tributary No. 2 of Carter Creek	Approximately 100 feet from the Corporate Limits	*872
		Tributary No. 3 of Carter Creek	Just upstream of Harvey Road	*897
		Magnolia Creek	Just upstream of Strother Avenue	*860
			Just upstream of State Highway 99	*868
		Tributary No. 1 of Magnolia Creek	Just upstream of State Highway 9	*875
			Just upstream of State Highway 99	*898
		Tributary No. 2 of Magnolia Creek	Just upstream of Unnamed Road	*877
		Tributary No. 3 of Magnolia Creek	Just upstream of Ideal Street	*888
		Tributary No. 1 of Tributary No. 3 of Magnolia Creek.	Just upstream of Good Hope	*907
Maps available for inspection at Department of Planning and Community Development, City Hall, Main and Evans Streets, Seminole, Oklahoma 74868.				
Pennsylvania	Kennett, Township, Chester County (Docket No. FEMA-6254).	Red Clay Creek	At the downstream corporate limits	*191
			At the confluence of East Branch Red Clay Creek	*204
		West Branch Red Clay Creek	At the confluence with East Branch Red Clay Creek	*204
			Approximately 1,600' upstream of Winding Lane	*217
			At Kaolin Road	*226
			At Private Road located approximately 3,850' upstream of Chandler Mill Road.	*244
			At Hillendale Road bridge	*256
			At Quarry Road	*265
			At West Cypress Street	*277

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At the upstream corporate limits	*286
		East Branch Red Clay Creek	At the confluence with Red Clay Creek	*204
			At downstream side of Old Kennett Road	*224
			At upstream side of McFarland Road bridge	*241
			Approximately 500' upstream of Hillendale Road bridge.	*260
			At the downstream Kennett Square corporate limits	*283
			At the upstream Kennett Square corporate limits	*306
			At the upstream corporate limits	*324
		Tributary 1	At the downstream corporate limits	*209
			At Burnt Mill Road bridge	*222
			Approximately 2,500' upstream of Burnt Mill Road bridge.	*246
		Tributary 2	At the downstream corporate limits	*316
			At upstream side of Hadley Mill Road bridge	*328
			Approximately 1,300' upstream of Hadley Mill Road bridge.	*341
			At the upstream corporate limits	*360
Maps available for inspection at the Township Building, Kennett Square, Pennsylvania.				
Pennsylvania	Lewisberry, borough, York County (Docket No. FEMA-6181).	Bennett Run	Downstream Corporate Limits	*419
			Upstream Corporate Limits	*423
			Front Street (upstream)	*424
Maps available for inspection at the residence of the Borough Secretary, Mr. William O. Keener, 2nd and Lewis Streets, Lewisberry, Pennsylvania.				
Pennsylvania	Selinsgrove, borough, Snyder County (Docket No. FEMA-6254.	Susquehanna River	Downstream corporate limits (extended)	*434
			Upstream of CONRAIL crossing	*438
			Upstream corporate limits (extended)	*439
		Penns Creek	Downstream of downstream corporate limits	*433
			Upstream of upstream corporate limits	*434
		South Tributary	Downstream of Market Street at downstream corporate limits.	*433
			Upstream of Sandhill Road	*437
			Approximately 200 feet upstream of Abandoned Private Bridge.	*440
			Downstream of West Sassafrass Street	*451
Maps available for inspection at the Borough Office, Selinsgrove, Pennsylvania.				
Pennsylvania	Union, township Snyder County (Docket No. FEMA-6254.	Susquehanna River	Corporate Limits (extended)	*420
			Confluence with Silver Creek	*422
			Confluence with Penns Creek	*430
		Penns Creek	Confluence with the Susquehanna River	*430
			Upstream of U.S. Routes 11 and 15	*433
		Middle Creek	Confluence with Penns Creek	*433
			Upstream of dam	*441
			At Corporate Limits	*441
		Silver Creek	Confluence with the Susquehanna River	*422
			Approximately 70 feet upstream of Legislative Route 54018 (downstream crossing).	*462
			Approximately 80 feet upstream of Legislative Route 54018 (upstream crossing).	*529
			Approximately 60 feet upstream of Legislative Route 54071.	*554
			Approximately 100 feet downstream of Township Route 357 (extended).	*557
Maps available for inspection at the residence of the Union Township Secretary, R.D. 1, Port Trevorton, Pennsylvania.				
Pennsylvania	York Springs, borough, Adams County (Docket No. FEMA-6254).	Tributary 1	Approximately 850' downstream of Latimore Street	*595
			Upstream of Latimore Street	*606
			Upstream corporate limits	*607
		Tributary 2	Confluence with Tributary 1	*606
			Downstream Main Street	*618
			Upstream corporate limits	*638
		Gardner Run	Downstream corporate limits	*586
			Approximately 200' upstream corporate limits	*588
Maps available for inspection at the Borough Office, York Springs, Pennsylvania.				
Tennessee	City of Dickson, Dickson County (FEMA-6254)	Jones Creek	Just upstream of Confluence of Jones Creek Tributary	*716
			Just upstream of Spring Street	*741
		Jones Creek Tributary	Just upstream of North Main Street (State Route 48)	*717
Maps available for inspection at City Hall, 202 South Main Street, Dickson, Tennessee 37055.				
Texas	City of Grapevine, Tarrant and Dallas Counties (FEMA-6243).	Bear Creek	Just upstream of Euless Grapevine Road	*537
			Just upstream of West Frontage Road (Highway 121)	*549
			Just upstream of Pool Road	*568
		Tributary BB-1	Just upstream of Glade Road	*525
		Tributary BB-2	Just downstream of Trigg Road	*548
		Tributary BB-3	At stream distance 1,500 feet from mouth	*546
		Tributary BB-5	Just upstream of Creekwood Drive	*564

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Denton Creek	At Unnamed Road	*473
			Just downstream of Grapevine Dam	*475
		Cottonwood Branch	Just upstream of Bethel Road	*532
			Just downstream of Wall Street	*556
Maps available for inspection at City Hall, Grapevine, Texas 76051.				
Texas	City of Montgomery, Montgomery County (FEMA-6254).	Town Creek	300 feet upstream of FM 149	*242
			Just downstream of the confluence with Town Creek Tributary.	*243
		Stewart Creek North	Just downstream of FM 149	*267
Maps available for inspection at City Hall, Montgomery, Texas 77356.				
Virginia	Saxis, town, Accomack County (Docket No. FEMA-6254).	Pocomoke Sound	Entire shoreline within community	*10
Maps available for inspection at the Town Office in the Fire House, Saxis, Virginia.				
West Virginia	Wellsburg, city, Brooke County (Docket No. FEMA-6254).	Ohio River	Downstream corporate limits	*666
			Upstream corporate limits	*667
Maps available for inspection at the City Hall, Seventh Street, Wellsburg, West Virginia.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 21, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18765 Filed 7-14-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Alaska	Dillingham (City), Bristol Bay Division, FEMA-6224	Nushagak Bay	100 feet southeast from the center of the intersection of State Hill Road and Dillingham Aleknagik Road.	**32
			700 feet south of the center of the intersection of C Street and Main Street.	**42
	Maps available for inspection at City Hall, Dillingham, Alaska.			
Arizona	Apache Junction (City), Pinal County, FEMA-6224	Weekes Wash	50 feet downstream from the center of East Superstition Boulevard.	*1,798
		Shallow Flooding Along U.S. Highway 60 and 89.	Center of East 4th Avenue, 230 feet west from its intersection with South Winchester Road.	*1,723
			Center of North Delaware Drive 100 feet north from its intersection with the center of U.S. Highway 60 and 89 (West Apache Trail).	*1,660
	Maps available for inspection at Department of Public Works, 1001 North Idaho Road, Apache Junction, Arizona.			
Arkansas	Clarksville, City of Johnson County (FEMA-5738)	Spadra Creek (before levee overtopping).	Just downstream of Cherry Street	*378
			Just upstream of Missouri-Pacific Railroad	*380
		Spadra Creek (after levee overtopping).	At the intersection of Laster Street and Kennon Street	*365
			At the intersection of Dunlop Street and Saver Street	*368
		Tributary 1	Just upstream of Interstate Highway 40	*358
		Greenbriar Creek	Just upstream of the downstream crossing of Missouri-Pacific Railroad.	*390
			Just upstream of Cherry Street	*406
		Little Willett Branch	Just upstream of U.S. Highway 64	*365
			Just upstream of Quarter-Line Road	*369
	Maps available for inspection at City Hall, Walnut Street, Clarkville, Arkansas 72830.			
California	Blue Lake (City), Humboldt County, FEMA-6243	Dave's Creek	20 feet downstream of intersection of Dave's Creek and Arcata and Mad River Railroad Spur.	*86
		Shallow Flooding	Intersection of Gely Street and Chartin Road	#1
		Mad River	700 feet downstream of intersection of Hatchery Road and Mad River.	*86
	Maps available for inspection at City Clerk's Office, 111 Greenwood Avenue, Blue Lake, California.			
California	Grass Valley (City), Nevada County, FEMA-6243	Wolf Creek	100 feet upstream from confluence with Little Wolf Creek.	*2,315
			30 feet upstream from center of Railroad Avenue	*2,447
		South Fork Wolf Creek	At intersection of Colfax East and St. Bennett Street	*2,434
		Little Wolf Creek	30 feet upstream from center of Freeman Lane	*2,358
			30 feet upstream from center of South Auburn Street	*2,411
	Maps available for inspection at Department of Public Works, 125 East Main Street, Grass Valley, California.			
Colorado	Buena Vista (Town), Chafee County, FEMA-6061	Cottonwood Creek—North Branch	20 feet upstream from center of Arizona Street	*7,899
			25 feet upstream from center of James Street	*7,976
		Cottonwood Creek—Middle Branch Shallow Flooding.	At the intersection of James Street and Yale Place	*7,976
		Overland Flow Shallow Flooding	At the intersection of Gunnison Avenue and Main Street.	*7,955
		Cottonwood Creek—South Branch Shallow Flooding.	At the intersection of Pleasant Avenue and Mill Street	*7,965
	Maps available for inspection at Town Hall, 210 E. Main, Buena Vista, Colorado.			
Colorado	Del Norte (Town), Rio Grande County, FEMA-6061	Rio Grande River	At intersection of Pine Street and First Street	*7,875
	Maps available for inspection at Town Hall, 140 Spruce, Del Norte, Colorado.			
Colorado	Monte Vista (City), Rio Grande County, FEMA-6074	Rio Grande River	At intersection of Gunbarrel Road (U.S. Highway 285) and Rio Grande River.	*7,659
	Maps available for inspection at City Manager's Office, 720 1st Avenue, Monte Vista, Colorado.			
Colorado	Salida (City), Chafee County, FEMA-6061	South Arkansas River	600 feet south from intersection of Palmer Street and U.S. Highway 50.	*7,040
	Maps available for inspection at Land and Survey Inspector's Office, 234 E Street, Salida, Colorado.			
Connecticut	Meriden, City, New Haven County (Docket No. FEMA-6243).	Quinnipiac River	Downstream Corporate Limits	*73
			Upstream of Hanover Pond Dam	*91
			Upstream Corporate Limits	*108
		Sodom Brook	Confluence with Quinnipiac River	*91
			Coe Avenue (upstream side)	*100
			West Main Street (upstream side)	*120
			State Route 66 (upstream side)	*131
			Leonard Street (upstream side)	*139
			Approximately 3,550 feet upstream of Leonard Street	*163
		Harbor Brook	Confluence with Quinnipiac River	d*91
			Hanover Street (upstream side)	*114
			Cooper Street (upstream side)	*122
			Center Street (upstream side)	*136
			North Broad Street (upstream side)	*158
			Upstream of Westfield Road (downstream crossing)	*180

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Confluence of Willow Brook and Spoon Shop Brook	*201
		Spoon Shop Brook	Confluence with Harbor Brook	*201
		sd	Upstream of Bee Street	*231
			Tumblebrook Road (upstream side)	*247
			Upstream of Maple Avenue	*274
			Upstream of Valley View Drive	*316
			Upstream of Birdsey Avenue	*369
		Willow Brook	Confluence with Harbor Brook	*201
			Upstream of State Route 15	*257
			East Main Street (upstream side)	*275
			East Road (upstream side)	*286
			Research Parkway (downstream side)	*290
		Crow Hollow Brook	Confluence with Sodum Brook	*100
			Downstream of Johnson Avenue	*140
			Upstream of West Main Street	*193
Maps available for inspection at the Engineering Department, City Hall, 142 East Main Street, Meriden, Connecticut.				
Connecticut	Ridgefield, Town, Fairfield County (Docket No. FEMA-6224).	Norwalk River	Downstream Corporate Limits	*344
			First crossing of downstream Corporate Limits	*370
			Second crossing of upstream Corporate Limits	*379
			Millers Pond Dam (upstream side)	*400
			Topstone Road (upstream side)	*416
			Stonehenge Road (upstream side)	*463
			Great Pond Road (upstream side)	*492
			State Route 35 (upstream side)	*510
			Great Hill Road (upstream side)	*531
			Downstream of Taylor Pond Dam	*563
		Titicus River	Downstream Corporate Limits	*496
			Ridgebury Road (upstream side)	*506
			Aspen Mill Road (upstream side)	*524
			Barlow Mountain Road (upstream side)	*574
			State Route 116 (upstream side)	*594
			Rampoo Road (upstream side)	*674
			Approximately 650 feet upstream from Overlook Drive	*685
		Ridgefield Brook	Taylor Pond Dam (upstream side)	*566
			State Route 35 (upstream side)	*573
			Approximately 6,200 feet upstream from Farmington Road.	*578
		Cooper Pond Brook	Confluence with Norwalk River	*350
			Candees Pond Dam (upstream side)	*359
			Stony Hill Road (upstream side)	*461
			Cooper Road (upstream side)	*536
			Cooper Hill Road (downstream side)	*552
			Approximately 1,165 feet upstream from Old Washington Road Ford.	*584
		East Branch Silvermine River	Downstream Corporate Limits	*561
			Downstream Crossing of Wilton Road East (upstream side).	*574
			Spectacle Lane (downstream side)	*584
Maps available for inspection at the Planning and Zoning Office, Ridgefield Town Hall, 400 Main Street, Ridgefield, Conndecticut.				
Florida	Belle Glade (City), Palm Beach County, FEMA-6246	Lake Okeechobee	Approximately 1000 feet west along State Highway 717 from its crossing of Herbert Hoover Dike.	*28
Maps available for inspection at City Hall, 110 SW Avenue E, Belle Glade, Florida.				
Florida	Boynton Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Along the shoreline within the corporate limits	*10
		Atlantic Ocean—Lake Worth	Eastern end of Lake Street	*9
			Intersection of North Road and East Drive	*8
			Intersection of Shore Drive and Ocean Inlet Drive	*7
Maps available for inspection at Building Department, 200 N. Seacrest, Boynton Beach, Florida.				
Florida	Briny Breezes (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of Briny Breezes Boulevard and Old Ocean Boulevard.	*10
		Inland Flooding	Approximately 300 feet west along Cordova Avenue from its intersection with Old Ocean Boulevard.	*7
Maps available for inspection at Town Hall, 5000 N. Ocean Boulevard, Boynton Beach, Florida.				
Florida	Delray Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of State Road No. A1A and Sea Spray Avenue.	*10
		Atlantic Ocean—Intracoastal Waterway.	Eastern end of S.E. 4th Street	*8
		Inland Flooding	Western end of Lake Eden Way	*12
			Intersection of Lake Ida Road and Roosevelt Avenue	*12
			Intersection of Lindell Boulevard and Dotterel Drive	*12
Maps available for inspection at City Engineer's Office, 100 NW 1st Avenue, Delray Beach, Florida.				
Florida	Gulf Stream (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 350 feet east of the intersection of North Ocean Boulevard and Golfview Drive.	*10
Maps available for inspection at Town Hall, 246 Sea Road, Gulf Stream, Florida.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Florida	Highland Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 300 feet east of the intersection of State Highway A1A and Highland Beach Drive.	*10
Maps available for inspection at Building Department, 3614 South Ocean Boulevard, Highland Beach, Florida.				
Florida	Indialantic (Town), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 500 feet east from intersection of Watson Drive and State Highway A1A.	*9
			Approximately 250 feet northeast of intersection of Eleventh Avenue and Wave Crest Street.	*12
		Atlantic Ocean—Indian River	Intersection of Second Avenue and Riverside Drive	*6
			Intersection of South Riverside Drive and Orlando Boulevard.	*7
Maps available for inspection at Town Hall, 216 Fifth Avenue, Indialantic, Florida.				
Florida	Indian Harbour Beach (City), Brevard County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 400 feet east from intersection of State Highway A1A and Banana River Drive.	*11
		Atlantic Ocean—Banana River	Intersection of Desoto Parkway and South Patrick Drive.	*6
			Intersection of Coconut Road and Banana River Drive	*6
			Intersection of Burns Boulevard and Mary Joyce Avenue.	*6
Maps available for inspection at Building Department, 2055 South Patrick Drive, Indian Harbour Beach, Florida.				
Florida	Indian River Shores (Town), Indian River County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 200 feet east of the eastern end of Beachcomer Lane.	*9
		Atlantic Ocean—Indian River	Hole in Wall Island	*7
			Intersection of Johns Island Drive and Indian Harbor Road.	*6
			Intersection of Sabal Palm Lane and Sandpiper Point	*5
Maps available for inspection at Building Department, 6001 North A1A, Indian River Shores, Florida.				
Florida	Juno Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Eastern end of Atlantic Boulevard	*10
		Atlantic Ocean—Pelican Pond	Approximately 100 feet east of the intersection of Olympus Way and Ocean Drive.	*8
Maps available for inspection at Building Department, 841 Ocean Drive, Juno Beach, Florida.				
Florida	Jupiter (Town), Palm Beach County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 250 feet east of the intersection of Ocean Way and State Highway A1A.	*10
		Atlantic Ocean—Lake Worth Creek	Eastern end of Elsa Road	*7
			Clark Lane	*6
		Atlantic Ocean—Loxahatchee River.	Intersection of Kennedy Street and Loxahatchee Drive	*6
			Dolphin Circle	*6
			Northern end of Marlin Drive	*7
			Western end of Frazier Drive	*6
Maps available for inspection at Building Department, 210 South Perry Avenue, Jupiter, Florida.				
Florida	Jupiter Inlet Colony (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean-Open Coast	Approximately 400 feet east of the intersection of Pirates Place and Ocean Drive.	*10
		Atlantic Ocean-Jupiter Sound	Northwest corner of the northernmost end of Lighthouse Drive.	*6
		Atlantic Ocean-Loxahatchee River	Approximately 200 feet southeast along Colony Road (extended) from its intersection with Lighthouse Drive.	*6
Maps available for inspection at Town Hall, 142 Beacon Lane, Jupiter, Florida.				
Florida	Lake Worth (City), Palm Beach County, FEMA-6246	Atlantic Ocean-Open Coast	Approximately 700 feet east of the intersection of State Highways A1A and 802.	*10
		Atlantic Ocean-Lake Worth	Intersection of Notre Dame Boulevard and Auburn Drive.	*8
			Intersection of N. 16th Avenue and Amherst Drive	*9
			Intersection of N. Lakeside Drive and N. 13th Avenue	*7
			Intersection of Golfview Street and S. 2nd Avenue	*9
			Intersection of S. 18th Avenue and S. Lakeside Drive	*7
Maps available for inspection at Building and Zoning Office, 7 N. Dixie Highway, Lake Worth, Florida.				
Florida	Malabar (Town), Brevard County, FEMA-6246	Atlantic Ocean—Indian River	Florida East Coast Railroad over Goat Creek	*7
			Approximately 200 feet east along Rocky Point Road from its intersection with U.S. Highway 1.	*8
Maps available for inspection at Town Hall, Route 514, Malabar Road, Malabar, Florida.				
Florida	Manalapan (Town), Palm Beach County, FEMA-6246	Atlantic Ocean-Open Coast	Ocean Boulevard at northernmost corporate limit	*10
		Atlantic Ocean-Lake Worth	Intersection of Lands End Road and Loggerhead Lane	*7
			Curlew Road	*8
Maps available for inspection at Town Offices, 600 S. Ocean Boulevard, Manalapan, Florida.				
Florida	Melbourne (City), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 400 feet east from intersection of State Highway 518 and State Highway A1A.	*9

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
		Atlantic Ocean-Jupiter River	Approximately 1,200 feet east of intersection of U.S. Highway 1 and Post Road.	*8
			Eastern end of Masterson Street	*8
			Approximately 250 feet east along West Eau Gallie Boulevard from its intersection with Pineapple Avenue.	*7
			Intersection of South Patrick Drive and State Highway 518.	*6
			Intersection of Melbourne Avenue and Front Street	*8
		Atlantic Ocean—Eau Gallie River	Southern end of Houston Street	*6
		Atlantic Ocean—Crane Creek	Eastern side of the intersection of U.S. Highway 1 and Melbourne Avenue.	*7
Maps available for inspection at Engineering Office, 900 E. Strawbridge Avenue, Melbourne, Florida 32901.				
Florida	Melbourne Beach (Town), Brevard County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of Ocean Avenue and Atlantic Street.	*12
			Approximately 350 feet east of intersection of Cherry Drive and Atlantic Street.	*9
		Atlantic Ocean—Indian River	Intersection of Flamingo Lane and Riverside Drive	*7
			Intersection of Sandy Key and Riverview Lane	*7
Maps available for inspection at Town Hall, 507 Ocean Avenue, Melbourne Beach, Florida.				
Florida	Ocean Ridge (Town), Palm Beach County FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 150 feet east along Porter Street from its intersection with Old Ocean Boulevard.	*10
		Atlantic Ocean—Lake Worth	Intersection of Island Drive and Island Drive South	*7
Maps available for inspection at Town Hall, 6450 N. Ocean Boulevard, Ocean Ridge, Florida.				
Florida	Palm Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Eastern end of Wells Road	*10
		Atlantic Ocean—Lake Worth	Eastern end of Via Palma	*10
			Intersection of Lake Way and Mediterranean Road	*7
			Intersection of Sunset Avenue and Bradley Place	*7
			Approximately 1000 feet South along Island Drive from its intersection with Island Road.	*8
			Regents Park Road	*7
			Intersection of Ibis Way and State Highway A1A	*7
Maps available for inspection at Building and Zoning Department, 45 Coconut Row, Palm Beach, Florida.				
Florida	Palm Beach Shores (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast and Lake Worth Inlet.	Approximately 500 feet east of the intersection of Ocean Avenue and Sandal Lane.	*10
			Southern side of the intersection of Atlantic Avenue and Inlet Way.	*7
		Atlantic Ocean—Lake Worth	Intersection of Edwards Lane and Lake Drive	*7
Maps available for inspection at Clerk's Office, 247 Edwards Lane, Palm Beach Shores, Florida.				
Florida	Riviera Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 500 feet east of the intersection of Ocean and Beach Road.	*10
		Atlantic Ocean—Lake Worth	Intersection of Gulf Stream Way and State Highway A1A.	*7
			Intersection of Sugar Sands Boulevard and Lake Drive	*7
			Intersection of 37th Street and Shore Drive	*8
			Intersection of Old Slip Road and Avenue C	*7
		Inland Flooding	Intersection of 2nd Street and Avenue J	*17
			Intersection of 32nd Street and Avenue P	*17
			Intersection of Z Terrace and 28th Street	*13
Maps available for inspection at City Hall, 600 W. Blueherron Boulevard, Riviera Beach, Florida.				
Florida	Satellite Beach (City), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of State Highway A1A and Jackson Avenue.	*11
			Approximately 350 feet east of intersection of State Highway A1A and Jackson Avenue.	*9
			Eastern end of Sunrise Avenue	*9
		Atlantic Ocean—Banana River	Intersection of South Patrick Drive and Roosevelt Avenue.	*6
			Intersection of Desoto Parkway and Kale Street	*6
Maps available for inspection at Building & Zoning Department, 510 Cinnamon Drive, Satellite Beach, Florida.				
Florida	South Palm Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 50 feet, entire length of the community.	*10
		Atlantic Ocean—Lake Worth	Ocean Boulevard	*7
Maps available for inspection at Town Clerk's Office, 3577 S. Ocean Boulevard, South Palm Beach, Florida.				
Florida	Tequesta (Village), Palm Beach County, FEMA-6246	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 20 feet, entire length of community.	*10
		Atlantic Ocean—Jupiter Sound	Intersection of State Route A1A and an Unnamed Road in the northeastern portion of the community.	*6
		Atlantic Ocean—Loxahatchee River and North Fork Loxahatchee River.	Western end of River Drive	*6
			Approximately 400 feet east along Tequesta Drive form its intersection with Point Drive.	*7
Maps available for Inspection at Building Department, 357 Tequesta Drive, Tequesta, Florida.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Indiana	(T) Andrews, Huntington County (Docket No. FEMA-6224).	Loon Creek	About 200 feet downstream of Norfolk and Western Railway.	*703
			About 150 feet upstream of McKeever Street	*715
			About 1,000 feet upstream of Main Street	*723
	Maps available for inspection at the Town Hall, 66 Main Street, Andrews, Indiana.			
Indiana	(T) Warren, Huntington County (Docket No. FEMA-6224).	Salamonie River	Just upstream of 900 South Road	*806
			About 2,000 feet upstream of 150 East Road	*815
	Maps available for inspection at the Town Hall, 2nd and Wayne Streets, Warren, Indiana.			
Minnesota	(C) Greenbush, Roseau County (Docket No. FEMA-6224).	South Branch Two Rivers	About 2,750 feet downstream of Main Street (at southern corporate limits).	*1,063
			About 2,000 feet upstream of State Highway 32 (at eastern corporate limits).	*1,066
	Maps available for inspection at City Hall, Greenbush, Minnesota.			
Minnesota	(C) Grygla, Marshall County (Docket No. FEMA-6224).	Mud River	At northwestern corporate limits	*1,174
			About 500 feet upstream of County Highway 54	*1,177
	Maps available for inspection at the City Hall, Grygla, Minnesota.			
Missouri	(C) Maplewood, St. Louis County (Docket No. FEMA-6163).	Deer Creek	About 700 feet downstream of St. Louis Belt and Terminal Railroad.	*432
			About 100 feet upstream of St. Louis Belt and Terminal Railroad.	*438
			About 100 feet downstream of Missouri Pacific Railroad.	*446
			At confluence of Black Creek	*450
		Black Creek	At confluence of Black Creek Tributary	*450
			About 2,000 feet upstream of Manchester Road	*450
		Black Creek Tributary	About 150 feet downstream of St. Louis Belt and Terminal Railroad.	*450
			Just upstream of St. Louis Belt and Terminal Railroad	*458
			Just downstream of West Bruno Avenue	*464
		Claytonia Creek	At confluence with Black Creek Tributary	*459
			Just downstream of West Bruno Avenue	*464
	Maps available for inspection at the City Hall, 7601 Manchester, Maplewood, Missouri.			
New Jersey	North Bergen, Township, Hudson County (Docket No. FEMA-6243).	Hudson River	Entire shoreline within North Bergen	*12
		Hackensack River	Along Conrail from eastern Corporate Limits to 86th Street (extended).	*9
			Along Conrail from 69th Street (extended) to Interstate Route No. 495.	*9
			Along Conrail from Interstate Route No. 495 to approximately 1,600 feet from intersection of Conrail and western Corporate Limits.	*5
	Maps available for inspection at the Municipal Building, 4233 Kennedy Boulevard, North Bergen, New Jersey.			
New Jersey	South Bound Brook, Borough, Somerset County (Docket No. FEMA-6243).	Raritan River	Downstream corporate limits	*31
			Upstream of Conrail	*33
			Upstream corporate limits	*37
	Maps available for inspection at the Municipal Building, 12 Main Street, South Bound Brook, New Jersey.			
New York	Cornwall, Town, Orange County (Docket No. FEMA-6243).	Moodna Creek	Confluence with Hudson River	*8
			Approximately 1,500† upstream of confluence with Hudson River.	*10
			Approximately 4,650† downstream of dam	*79
			Upstream of dam	*127
			Upstream of Albany Turnpike (State Route 32)	*169
			Approximately 5,000 feet upstream second dam	*199
			Approximately 1,660† downstream of Pleasant Hill Road.	*221
			Upstream of New York State Thruway	*236
			Approximately 1,740† downstream of Otterkill Road	*241
			Otterkill Road (downstream side)	*244
			Approximately 500 feet upstream Conrail	*252
			Approximately 5,800† upstream Conrail	*261
			Upstream Corporate Limits	*284
		Woodbury Creek	Confluence with Moodna Creek	*235
			Star Drive (upstream side)	*262
			Approximately 5,000† upstream Star Drive	*278
			Upstream Corporate Limits	*286
		Idlewild Creek	*Confluence with Moodna Creek	*10
			Academy Avenue (upstream side)	*153
			Main Street (upstream side)(upstream crossing)	*252

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Approximately 3,020† upstream of Main Street (upstream crossing).	*287
		Hudson River	Entire shoreline within community	*8
Maps available for inspection at the Office of the Town Clerk and at the Public Library, Cornwall, New York.				
New York	Crawford, Town, Orange County (Docket No. FEMA-6243).	Shawangunk Kill	Downstream corporate limits	*292
			Upstream of Hardenburg Road	*316
			Upstream of dam	*331
			Upstream of dam at Crawford Road	*356
			Upstream of County Route 48	*380
			Upstream of Petticoate Lane	*404
			Upstream corporate limits	*420
Maps available for inspection at the Town Hall, Main Street, Pine Bush, New York.				
New York	Gardiner, Town, Ulster County (Docket No. FEMA-6243).	Wallkill River	*Downstream corporate limits	*196
			Confluence of Shawangunk Kill	*204
			Upstream corporate limits	*213
		Shawangunk	Confluence with Wallkill River	*204
			Downstream of Albany Post Road	*207
			Approximately 700† upstream of Albany Post Road	*213
Maps available for inspection at the Office of the Town Clerk, Gardiner, New York.				
New York	Marshall, Town, Oneida County (Docket No. FEMA-6197).	Big Creek	Confluence with Oriskany Creek	*739
			Upstream of California Road	*761
			Downstream of Shanley Road	*810
			Approximately 2,400' upstream of Shanley Road	*837
			Approximately 4,000' upstream of Shanley Road	*860
			Upstream of Gridley Paige Road	*923
			Upstream of Sally Road	*946
			Downstream of Bogan Road	*959
			Upstream of State Route 315	*978
			Approximately 2,000' upstream of State Route 315	*1,000
			Downstream of Sewage Treatment Plant Drive	*1,073
			Upstream Corporate Limits	*1,104
		Tributary A to Big Creek	Downstream Corporate Limits	*1,241
			Approximately 3,100' upstream of Corporate Limits	*1,298
		Tributary A-1 to Big Creek	Downstream Corporate Limits	*1,232
			Approximately 1,660' upstream of Corporate Limits	*1,241
		Lindsley Brook	Downstream Corporate Limits	*944
			Upstream of Private Road	*964
			Downstream of State Route 3	*989
			Approximately 2,150' upstream of State Route 3	*1,039
		Oriskany Creek	Corporate Limits	*727
			Downstream of State Route 315	*754
			Approximately 2,000' upstream of confluence of Watermans Brook.	*775
			Approximately 5,000' upstream of confluence of Watermans Brook.	*799
			Upstream of Burnham Road	*826
			Approximately 2,500' upstream of Burnham Road	*845
			Upstream of Van Hyning Road	*866
			Approximately 2,500' downstream of Koppers Co. Drive.	*890
			Upstream of Conrail Highlevel Bridge	*914
			Upstream Corporate Limits	*928
		Watermans Brook	Confluence with Oriskany Brook	*760
			Approximately 2,200' upstream of confluence with Oriskany Creek.	*780
			Approximately 3,400' upstream of confluence with Oriskany Creek.	*799
			Downstream of Burnham Road	*831
			Approximately 1,400' upstream of Burnham Road	*852
			Approximately 2,400' upstream of Burnham Road	*871
			Approximately 4,200' upstream of Burnham Road	*908
Maps available for inspection at the Office of the Town Clerk located in the Music Museum, Deansboro, New York.				
New York	Moravia, Village, Cayuga County (Docket No. FEMA-6224).	Dry Creek	Confluence with Owasco Inlet	*734
			Upstream of Main Street	*751
			Upstream corporate limits	*766
		Mill Creek	Confluence with Owasco Inlet	*730
			Approximately 720' upstream of East Cayuga Street	*756
		Owasco Inlet	Downstream corporate limits extended	*725
			Upstream corporate limits extended	*738
Maps available for inspection at the Office of the Village Clerk, 22 Central Street, Moravia, New York.				
New York	New Paltz, Town, Ulster County (Docket No. FEMA-6153).	Wallkill River	Downstream corporate limits	*192
			State Route 299 bridge	*194
			Upstream corporate limits	*196
Maps available for inspection at the Meeting Room, Town Hall, One Veterans Drive, New Paltz, New York.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
New York	Shawangunk, Town, Ulster County (Docket No. FEMA-6243).	Shawangunk Kill	Confluence of Dwaar Kill West	*290
			Upstream of Hardenburg Road	*316
			Downstream of Johns Estate Drive	*338
			Upstream of Johns Estate Drive	*340
			Corporate Limits	*362
		Verkeerder Kill	Confluence with Shawangunk Kill	*338
			Downstream of Ulsterville Road	*387
			Downstream of State Route 52	*413
			Approximately 6,300' upstream of State Route 52	*436
		Dwaar Kill West	Confluence with Shawangunk Kill	*290
			Upstream of Red Mills Road	*314
			Upstream of New Prospect Road/County Route 7	*348
			Upstream of Awosting Road	*400
		Wallkill River	Downstream Corporate Limits	*211
			Confluence of Dwaar Kill East	*234
			Upstream Corporate Limits	*262
		Dwaar Kill East	Confluence with Wallkill River	*234
			Upstream of Mud Tavern Road	*255
			Downstream of Bruyn Turnpike/County Route 18	*267
			Corporate Limits	*312
	Maps available for inspection at the Town Hall, Central Avenue, Wallkill, New York.			
North Dakota	Spiritwood Lake City (City), Stutsman County, FEMA-6243.	Spiritwood Lake	Along shoreline at East Lake County Road	*1,450
	Maps available for inspection at Fish & Game Headquarters, Spiritwood Lake City, North Dakota.			
Oregon	Washington County (Unincorporated Areas), FEMA-6224.	Tualatin River	100 feet upstream from center of Schamberg Bridge	*130
			100 feet upstream from center of Minter Bridge Road	*146
			150 feet upstream from center of Tualatin Valley Highway (Old Highway 47) at Gaston.	*179
		Fanno Creek	Intersection of Southwest Nicol Road and Southwest Vermont Street.	*215
		Summer Creek	100 feet upstream from center of Southwest 135th Street.	*176
		Ash Creek	100 feet upstream from center of State Highway 217	*161
		Rock Creek	Intersection of Tualatin-Sherwood Road and Tonquin Road.	*135
		Cedar Creek	50 feet upstream from center of Edy Road	*146
		Butternut Creek	100 feet upstream from center of Southwest 209th Avenue.	*166
		Rock Creek (Near Hillsboro)	50 feet upstream from center of Northwest Rock Creek Boulevard.	*166
		Dawson Creek	50 feet downstream from center of Northwest Brookwood Avenue.	*147
		Beaverton Creek	Intersection of Southwest Terman Road and Southwest 141st Street.	*177
		Bronson Creek	100 feet upstream from center of West Union Road	*214
		Willow Creek	Intersection of Northwest 158th Avenue and Cornell Road.	*208
		Cedar Mill Creek	Intersection of Southwest Evergreen Street and Southwest 134th Avenue.	*203
		Johnson Creek	100 feet upstream from center of State Highway 208	*175
		Dairy Creek	300 feet upstream from center of Tualatin Valley Highway.	*150
		West Fork Dairy Creek	50 feet upstream from center of Wilson River Highway	*190
		McKay Creek	300 feet upstream from center of U.S. Highway 26	*167
		Council Creek	50 feet upstream from center of Martin Road	*161
		Gales Creek	Intersection of Tualatin Valley Highway and Stringtown Road.	*168
		Tualatin River Side Channel	Intersection of Buchanan Road and La Follett Road	*156
		Nyberg Slough	300 feet upstream from center of Interstate Highway 5	*123
	Maps available for inspection at Public Works Office, 150 N. 1st Avenue, Hillsboro, Oregon 97123.			
Pennsylvania	Dillsburg, Borough, York County (Docket No. FEMA-6163).	Dogwood Run	Affecting Tributary A at the downstream Corporate Limits.	*525
			Affecting Tributary A at the upstream Corporate Limits	*528
	Maps available for inspection at the Borough Hall, Dillsburg, Pennsylvania.			
Tennessee	Town of Jonesboro, Washington County (FEMA-6243).	Little Limestone Creek	Just downstream of 3rd Avenue	*1,680
			Just downstream of North Cherokee Street	*1,685
			Just upstream of City Street	*1,742
		Tributary to Little Limestone Creek	Approximately 485 feet upstream of Sabine Lane	*1,694
			Just downstream of Bugabee Spring Road	*1,719
	Maps available for inspection at Town Hall, Boone Street, Jonesboro, Tennessee 37659.			
Tennessee	Unincorporated Areas of Sullivan County (FEMA-6243).	Horse Creek	Just upstream of County Road	*1,195
			Just upstream of State Highway 93	*1,209
			Just upstream of County Road (Rock Springs)	*1,229
		Kendrick Creek	Just downstream of Rock Springs Road	*1,232
			Just downstream of Summerville Pike	*1,309

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Just downstream of Moreland Drive	*1,309
			Just upstream of Kendrick Creek Road	*1,327
			Just upstream of Interstate Highway 81	*1,461
		Reedy Creek	Just upstream of Anderson Bridge (Bancroft Chapel Road).	*1,248
			Just upstream of U.S. Highway 11W (State Highway 1)	*1,262
			Just downstream of County Road (Barger Hollow Road).	*1,406
			Just upstream of State Highway 37	*1,613
			Just downstream of U.S. Highway 11	*1,664
		Fall Creek	Just upstream of Toy Holt Road	*1,327
			Just downstream of County Road (Green Road)	*1,449
		Beaver Creek	Just upstream of Mill Pace Dam	*1,406
			Just downstream of U.S. Highway 11E, 19, and 411 (Andrew Johnson Highway).	*1,442
			Just upstream of Speedway Entrance Road	*1,447
		Back Creek	Just approximately .04 mile to the limit of detailed study.	*1,448
		Whitetop Creek	Just approximately .02 mile to limit of detailed study	*1,460
		North Fork Holston Creek	Just upstream of Carters Valley Road	*1,204
		South Fork Holston River	Just upstream of State Highway 93 (John B. Dennis Bypass).	*1,197
			Just upstream of U.S. Highway 13	*1,207
		South Fork Holston River Sluice	Just upstream of Wilcox Drive	*1,187
			Just upstream of Eastman Drive	*1,192
Maps available for inspection at Sullivan County Courthouse, Main Street, Blountville, Tennessee 37617.				
Tennessee	Unincorporated Areas of Washington County (FEMA-6243).	Cobb Creek	Just downstream of Austin Spring Road (MO. 23)	*1,424
			Just upstream of Austin Spring Road (MO. 23)	*1,425
			Just downstream of Austin Spring Road (MI. 14)	*1,479
		Knob Creek	Just downstream of the sewage treatment plant	*1,421
			Just downstream of City Street	*1,455
			Just upstream of City Street	*1,457
		Cedar Creek	Just downstream of U.S. Highway 23	*1,360
			Just upstream of U.S. Highway 23	*1,367
			Just downstream of County Road (MI. 61)	*1,419
			Just upstream of County Road (MI. 61)	*1,423
		Sinking Creek	Just downstream of David Miller Rd.	*1,805
			Just upstream of David Miller Rd.	*1,807
			Just upstream of Sinking Creek Rd.	*1,810
		Brush Creek	Just downstream of Watauga Road	*1,425
			Just upstream of Watauga Road	*1,429
			Just downstream of Mill Dam	*1,471
			Just upstream of Mill Dam	*1,476
			Just downstream of Dalewood Drive	*1,507
			Just upstream of Dalewood Drive	*1,510
		Boones Creek	Just downstream of County Road	*1,421
			Just downstream of U.S. Highway 23	*1,454
			Just downstream of State Highway 137 Southbound Ramp.	*1,520
		Little Limestone Creek	Just downstream of David Crockett School Road	*1,625
			Just upstream of David Crockett School Road	*1,627
			Just downstream of Unnamed Subdivision Road	*1,630
			Just upstream of Unnamed Subdivision Road	*1,632
			Just downstream of U.S. Highway 34	*1,647
			Just upstream of U.S. Highway 34	*1,651
Maps available for inspection at State Planning Office, Boone Street, Jonesboro, Tennessee 37601.				
Texas	City of Canyon, Randall County (FEMA-6243)	Palo Duro Creek	Just downstream of Hunsley Hills Boulevard	*3,501
			Just upstream of Jynteewood Drive	*3,506
		Prairie Dog Town Fork of Red River (Tierra Blanca Creek).	Just upstream of State Highway 217	*3,494
Maps available for inspection at City Hall, 301 Sixteenth Street, Canyon, Texas 79015.				
Texas	City of Keller, Tarrant County (FEMA-6243)	Little Bear Creek	Just upstream of East corporate limits	*661
		Tributary LB-3	Approximately 660 feet upstream of confluence with Little Bear Creek.	*669
		Bear Creek	Approximately 200 feet upstream of east corporate limits.	*608
			Approximately 300 feet upstream of Keller Smithfield Road.	*646
			Just upstream of Whitley Road	*679
			Just upstream of State Highway 377	*683
		Tributary BB-9	Approximately 300 feet upstream of FM 1938	*618
		Tributary BB-10	Just downstream of Dana Drive	*666
		Tributary BB-11	Just downstream of J. T. Ohinger Road	*660
		Tributary BB-12	Just downstream of Pate Orr Drive	*661
Maps available for inspection at City Hall, Keller, Texas 76248.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Texas	Village of Lake Tanglewood, Randall County (FEMA-6243).	Prairie Dog Town Fork Red River	At County Road	*3,394
Maps available for inspection at Village Hall, Lake Tanglewood, Texas 79101.				
Texas	City of Point Comfort, Calhoun County (FEMA-6243)	Lavaca Bay	Along the Shore Line	*18
Maps available for inspection at City Hall, 106 Jones Street, Point Comfort, Texas 77978.				
Texas	Unincorporated Areas of Randall County (FEMA-6243).	Prairie Dog Town Fork of Red River.	Just upsteam of Wildwood Drive	*3,417
			Just upstream of FM 1541	*3,443
		Tierra Blanca Creek	Just upstream of Hunsly Road	*3,484
			Just upstream of State Highway 217	*3,494
			Just upstream of U.S. Highway 87	*3,501
			Just upstream of FM 2590 (8th St.)	*3,516
		Palo Doro Creek	Just downstream of Topeka & Santa Fe Railway	*3,488
			Just upstream of U.S. Highways 60 and 87	*3,495
		Spring Draw	Just upstream of U.S. Highways 60 and 87 and Interstate 27.	*3,511
Maps available for inspection at Randall County Judge's Office, Randall County Courthouse, Canyon, Texas 79015.				
Virginia	Leesburg, Town, Loudoun County (Docket No. FEMA-6243).	Tuscarora Creek	Downstream Corporate Limits	*273
			State Route 643 (Sycolin Road) (upstream)	*286
			Harrison Street (upstream)	*302
			State Route 621 (Evergreen Mill Road) (upstream)	*312
			U.S. Business Route 15 (King Street) (upstream)	*324
		Town Branch	Confluence with Tuscarora Creek	*302
			Catoctin Circle (upstream)	*304
			U.S. Business Route 15 (King Street) (upstream)	*319
			Approximately 1,950 feet upstream from U.S. Business Route 15 (King Street).	*337
Maps available for inspection at the Town Hall, Leesburg, Virginia.				
West Virginia	Follansbee, City, Brooke County (Docket No. FEMA-6243).	Ohio River	Downstream corporate limits	*668
			Upstream corporate limits	*669
Maps available for inspection at the City Building, Follansbee, West Virginia.				
Wisconsin	(V) Johnson Creek, Jefferson County (Docket No. FEMA-6224).	Johnson Creek	About 0.64 mile downstream of Union Street	*792
			About 0.64 mile upstream of the Chicago and North Western Railroad.	*792
Maps available for inspection at the Office of the Village Clerk, Village Hall, 110 Milwaukee Street, Johnson Creek, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18766 Filed 7-14-82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-172]

Organization and Delegation of Powers and Duties, Review of Decisions of the Maritime Subsidy Board

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: DOT delegates to the General Counsel of the Department the authority to grant or deny requests for extension of time to file documents relating to review by the Secretary of Transportation of decisions of the Maritime Subsidy Board.

DATE: This amendment becomes effective June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

Part 202 of Title 46, Code of Federal Regulations, sets forth procedures relating to Secretarial review of any decision, report, order, or action of the Maritime Subsidy Board. Petitioners for review sometimes seek extension of time to file, which, under the rules, must be granted or denied by the Secretary. Since this authority relates basically to the procedural aspects of legal proceedings, it is being delegated to the General Counsel of the Department, who in turn is redelegating the authority to the Assistant General Counsel for Environmental, Civil Rights, and General Law.

List of Subjects in 49 CFR Part 1:

Authority delegations (government agencies); Organization and functions (government agencies).

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of the Title 49, Code of Federal Regulations, is amended by, in § 1.57, adding a new paragraph (p) at the end thereof to read as follows:

§ 1.57 Delegations to General Counsel.

The General Counsel is delegated authority to—

* * * * *

(p) Grant or deny petitions for extension of time to file a document under Part 202 of Title 46.

(Sec. 9(e), Department of Transportation Act, 49 USC 1657(e).)

Issued in Washington, D.C., on June 30, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-18903 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13, 16 and 17

Wildlife and Plants; Permit Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service hereby revises certain portions of Title 50 CFR which address permits for wildlife and plants. The revision contains three distinct segments: (1) Consolidation and simplification of permit requirements. Unnecessary or redundant sections are deleted as part of an ongoing effort to make permit procedures more understandable to the public. (2) Codification of the schedule of permit application fees for clarity. A $25 application fee is required for all permits, certificates, licenses and registrations except for certain nonstandard fees: import/export licenses—$50; marine mammal permits—$100; migratory bird and eagle permits—none. (3) Implementation of a formal appeals procedure. Permit applicants whose applications are denied and permittees whose permits are modified, suspended or revoked will be able to appeal a permit decision through a defined channel, enabling the Service to handle appeals consistently.

EFFECTIVE DATE: August 16, 1982.

ADDRESSES: Please address correspondence to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203. Information on this amendment is available for review during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday in Room 601, 1000 N. Glebe Road, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Larry LaRochelle, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203 (703/235-1903).

SUPPLEMENTARY INFORMATION: The Federal Wildlife Permit Office has been charged with reviewing and improving the Service's permit program. This is an ongoing project in addition to permit processing. Suggestions for improvements should be sent to the address above.

The Service published a Notice of Intent in the April 16, 1981 **Federal Register** (46 FR 22243) and a Proposed Rule on September 18, 1981 (46 FR 46361) in which it solicited comments on the proposal to consolidate and simplify permit requirements. Eight commenters responded: seven associated with zoological parks and aquariums, and a representative of the American Fur Industry. All supported the proposal to reduce unnecessary regulations and encouraged the Service to continue its efforts. However, several expressed concern about relaxing the requirements to the point where the resource is not adequately protected. The Service believes that these changes in fact enhance the protection of the resource by allowing the Service to focus its manpower on significant resource problems. After considering the comments offered, the Service, by this rulemaking, eliminates certain application and report requirements, codifies the permit application fee schedule and implements a formal appeal procedure.

Elimination of Unnecessary Requirements

Some of the regulatory requirements for permits have proved inadequate, unnecessary or unwieldy. Their modification will improve the permit system. These regulations are found in Parts 10 through 23 of 50 CFR.

Section 13.11 is revised to indicate that the application must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3-200) or as otherwise specifically directed by the Service, updates Service addresses where applications should be forwarded and provides a realistic notice of the processing time for applications. Almost all applications now received by the Service are on the standard permit application (Form 3-200). The ones which are not are usually incomplete. This results in processing delays for the applicant and creates work for reviewers because the applicant mst be contacted to provide the additional information. This extra effort lengthens processing time for all applications in the system. Much of this effort will be eliminated by requiring standard information in a standard format.

Current regulations require that applications must be submitted at least 30 days prior to the date the applicant wishes to begin the activity. Few applications submitted to the Federal Wildlife Permit Office meet this requirement. The regulation is revised to provide that most types of applications *should* be received at least 30 days prior to the desired effective date of the permit. Since there are statutory requirements that notice of receipt of applications for marine mammal and endangered species permits be published in the **Federal Register** and public comments invited for 30 days, applicants should allow 75 days for porcessing these types of applications. Novel or controversial applications almost always require more time than usual to process because they require the Service to implement new procedures to accommodate the request or assurance that complete and accurate information is available to the reviewing office.

Section 13.13 requires that applications be abandoned if incomplete after 60 days following notification of deficiencies. Applicants sometimes require more than 60 days to obtain certain information and request that their application remain active beyond that deadline. This could be accommodated under the revision.

Section 13.14 requires that any application submitted without the correct fee shall be returned. Many applications submitted with the incorrect fee are done so unknowingly. Revision of this section requires that permits not be issued until the proper fee is received, although processing may, at the discretion of the reviewing office, continue in the interim. Upon the suggestion of one commenter, this section will also contain a statement that the reviewing office must notify the applicant upon discovery that the proper fee has not been received.

Applications for injurious wildlife permits under Section 16.22 should be submitted to the Federal Wildlife Permit Office as indicated in the proposal. The name and address of the consignor or other person from whom the wildlife would be obtained has not proved to be

useful information in reviewing applications and is no longer required. Permittees who import injurious wildlife must complete a Wildlife Declaration (Form 3–177) at the port. The requirement to make a second report to the Director within 10 days is eliminated. The requirement to report the death of injurious wildlife to the Director is also eliminated because such wildlife is of concern only when alive.

Applicants for endangered and threatened species permits under Part 17 are required to provide redundant and often unnecessary information. This is eliminated by requiring them to provide details of only the activities sought to be authorized. Contracts, a statement of willingness to participate in cooperative breeding programs and a description of facilities are not always necessary to determine if a permit is justified. Such information would be included as details of the activity when relevant, but is not necessarily required of all applicants.

The requirements that reports for endangered and threatened species permits be submitted within 10 days of completion of the authorized activity and that all carcasses be preserved have proved unrealistic in many cases. Useful results are not always available within 10 days after completion of activities under scientific research permits. Permittees authorized to import or export such wildlife are required to complete a Wildlife Declaration (Form 3–177). A second report within 10 days is unnecessary. Some specimens are too large to readily preserve, or are collected under conditions which make successful preservation unlikely. Therefore this provision has been amended to require only reports of escapes of live wildlife. Other reporting requirements relevant to a particular permit will be specified in the permit.

Comments from both the Riverbanks Zoological Park and the Minnesota Zoological Garden addressed removal of a "statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook." Both believed that requirement should remain in the regulations. There were no comments in support of removal. Since the Service and cooperating entities have a need to determine the breeding background of certain wildlife to determine its suitability for release to the wild, the provision will be retained.

Several commenters were concerned that there be access to information maintained by breeders of endangered and threatened species. The Federal Wildlife Permit Office maintains a list of persons registered to buy and sell exotic endangered and threatened wildlife captive-bred in the United States for the purpose of enhancement of propagation. The list includes names and addresses of registrants and the type of wildlife they may buy and sell. This list is available to the public.

The commercial importation of red, eastern gray and western gray kangaroos, and their parts and products, taken in accordance with management plans of Australian States is now allowed under a Special Rule found at 50 CFR 17.40(a) (46 FR 23929). There is no longer a need for importers to obtain economic hardship permits for these species from the Service. Therefore the provision which provides for economic hardship permits for these kangaroos is eliminated.

The Service publishes notice of receipt of endangered species applications and invites public comment for 30 days, as required by law. It also publishes notice of final actions taken on endangered species permit applications on a monthly basis. One party questioned the adequacy of such notices, particularly when an objection had been received to the issuance of the permit. Consequently, the Service explored several ways to obtain meaningful public comment without undue interference with the permit program.

One of the alternatives considered was that issuance of all endangered species permits be preceded by a notice of issuance in the **Federal Register.** A variation of this was that, because only a small number of applications elicit substantive comments, the Service would publish prior notice of issuance only when requested to do so on specific applications. These alternatives were rejected because (1) there is a question whether such a procedure is legally required, (2) publication would delay the effective date of the permit without necessarily providing for constructive input, and (3) it is not cost-effective to undertake additional publications.

The Service decided to adopt the following provision. Anyone who indicates in writing the reasons why the applicant might not meet the criteria for permit issuance may request that he be contacted by telephone, mail or other expedient means prior to issuance and be notified of the Service's intent to issue the permit over his objection. The Service will offer the commenter opportunity to provide additional information to substantiate his objection. The commenter will be allowed an additional ten days to respond except in those cases where the delay would jeopardize the specimen or purpose of the permit.

Fee Schedule

General statutory authority to charge fees for permits and certificates is found in 31 U.S.C. 483(a) which provides that any Federal agency may charge fees for services including permits and certificates to make these services "self-sustaining to the full extent possible." The Endangered Species Act of 1973, as amended (16 U.S.C. 1540(f)) authorizes the Secretary to "charge reasonable fees for expenses to the government connected with permits or certificates authorized by the Act including processing applications and reasonable inspection * * *" The Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(g)) provides that the "Secretary shall establish and charge a reasonable fee for permits" issued pursuant to the Act.

The total cost of processing each application is not expected to be borne by the applicant. In many cases, this cost would be prohibitive and might have a negative effect on the resource. However, the Service believes a reasonable fee should be charged for most permit applications to help defray processing costs. Therefore, the revised fee schedule reflects a portion of the expenses incurred in processing an application. The fees are $25 for most applications, $50 for import/export licenses and $100 for marine mammal permit applications. Some permits do not require fees.

For convenience, required fees are shown below:

Type of permit and regulations	Fee
Importation at Non-designated Ports:	
Scientific (14.31)	$25
Deterioration prevention (14.32)	25
Economic hardship (14.33)	25
Import/Export License (14.93)	50
Feather Import Quota:	
Allocation (15.21)	25
Reallocation (15.24)	25
Injurious Wildlife (16.22)	25
Endangered Species:	
Captive-Bred Wildlife Registration (17.21)	25
Scientific or enhancement of propagation or survival (17.22)	25
Economic hardship (17.23)	25
Threatened Species:	
Scientific, enhancement of propagation or survival, education, zoological exhibition, economic hardship or special purpose, except as noted otherwise (17.32)	25
Special rules—mammals (17.40)	25
Special rules—birds (17.41)	25
Special rules—reptiles (17.42)	25
Special rules—fishes (17.44)	25
Special rules—insects (17.47)	25
Marine Mammal:	
Registered agent (18.23)	25
Scientific research and public display (18.31)	100
Convention on International Trade in Endangered Species (CITES) Permits and Certificates (23.15)	25

Sometimes an application for a particular transaction or series of

transactions requires more than one type of permit from the same issuing office. If the transaction can reasonably be accommodated under one consolidated permit, only one application fee will be charged. The issuing office will determine if such consolidation is feasible, and will charge the largest individual fee applicable.

Applications for renewal or substantive amendment of permits must be accompanied by the same fee that is charged for applications for new permits. The review process and incurred costs for renewals and substantive amendments are similar to those for new permits.

Since the application fee is charged to offset the costs of processing the application, it will not be returned in cases where the permit is issued or the application is denied or abandoned. However, the fee may be returned if an application is withdrawn prior to significant processing by the issuing office.

The only exception to the fee schedule is that any Federal, State or local government agency or an individual or institution under contract to such agency for the proposed activity is exempt.

The Riverbanks Zoological Park and the American Association of Zoological Parks and Aquariums commented that county agencies should be exempted from application fees as are Federal, State and local government agencies. The Service considers a county agency as a "local" government agency and therefore county agencies are exempt.

The Service recently instituted a procedure designed to simplfy the issuance of CITES export and reexport permits to persons who make several shipments of this type over a given period of time. This procedure also makes it possible to issue permits at the point of export and in a much shorter time (often one day) than was previously the case. The applicant submits a request for a Letter of Authorization (LOA) to the Wildlife Permit Office and undergoes a form of "pre-clearance." There is no fee for the LOA, which is valid for two years and is renewable. Permits are issued at the time of export to cover each specific shipment and a processing fee is assessed for each permit at that time. This procedure is not mandatory, but most users have found it to be highly advantageous.

The American Fur Industry suggested that rather than pay a fee for each permit issued under the LOA system, that a single fee accompany the application for the LOA. The Service had considered this alternative during development of the LOA system, but decided that this alternative did not take into account a permittee's level of use and the subsequent cost of government services. It was not equitable on a nation-wide basis because of a great difference in numbers of shipments among exporters. This procedure might also be contrary to the Regulatory Flexibility Act in that it would impose a greater cost per shipment to small businesses, those which make one or two exports a year, than to the more frequent exporters. Therefore the Service did not adopt this suggestion. However the Service is considering allowing permittees to establish standing accounts for permits obtained under LOAs or to be periodically billed to save the cost of processing checks for each shipment.

Appeals Procedure

In this rulemaking, the Service establishes a clear and concise method for applicants or permittees to appeal actions taken by the Service in field offices, as well as in the Federal Wildlife Permit Office. This rule provides for an appeal to be submitted by the applicant or permittee to the office which issued the denial, modification, amendment or other action. Appeals will be decided by a Regional Director, in the case of actions taken by field offices, or by the Director, in the case of actions taken by the Federal Wildlife Permit Office. This action will be the final administrative decision of the Department.

Comments received on the proposed procedure were favorable and emphasized that the process be kept simple. The final rule differs somewhat from the proposal in that references to an Appeals Board have been deleted. The Service felt that the possible inconsistent use of appeals boards might constitute unequal treatment of appellants. The Regional Directors or the Director are free to utilize such staff assistance as necessary to consider any appeal, and may delegate the appeal decision as authorized, provided it is not delegated to the issuing office.

Experience in the Federal Wildlife Permit Office has shown that most appeals can be processed within the time frames described in the proposed rulemaking. On occasion, there are appeals which require additional time to obtain information critical to reaching a decision on the appeal. To make a decision without necessary information might not be fair to the person submitting the appeal.

The purpose of the appeals procedure is to establish a defined mechanism whereby an applicant or permittee may quickly get a fair review of a decision on his application or permit. The Service does not want to make time the controlling factor in reaching a decision, but does expect that the time frames described in this rulemaking will be adhered to. Therefore, the time frames described may be extended by the Service in special situations, but the person submitting the appeal must be informed in writing of the reasons for doing so. The final rule also differs editorially from the proposed rule in that the OMB clearance number for the information collection requirements has been inserted where appropriate.

This rulemaking was written by Larry LaRochelle, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291. Further, the Department of the Interior has determined that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This determination is based upon the fact that the rulemaking will involve only minimal costs, *i.e.* the cost of permits, for small entities, while providing for less reporting requirements and simplifying permit processing. The information collection requirements associated with fish and wildlife permits covered by this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022.

Regulations Revised

List of Subjects 50 CFR

Part 13

Administrative practices and procedures, Exports, Imports, Fish, Wildlife, Reporting requirements.

Part 16

Animal disease, Fish, Wildlife, Import, Freight, Transportation.

Part 17

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

Parts 13, 16 and 17 of Title 50 Code of Federal Regulations are amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. Add to Subpart A—Introduction, in the Table of Contents the following new section titles:

Subpart A—Introduction

* * * * *

13.5 Information collection requirements.
* * * * *
13.32 Appeal procedure.

2. In Subpart A—Introduction, revise the "authority" list following the Table of Contents to read as follows:

Authority: 18 U.S.C 42; sec. 4, Pub. L. 97–79, 95 Stat. 1074 (16 U.S.C. 3373); sec. 7, Pub. L. 97–79, 95 Stat. 1078 (16 U.S.C. 3376); sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); sec. 2, 54 Stat. 251, as amended by sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a); sec. 102, 76 Stat. 73 (19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; sec. 9(d), Pub. L. 93–205, 87 Stat. 893 (16 U.S.C. 1538(d); sec. 6(a)(1), Pub. L. 96–159, 93 Stat. 1228 (16 U.S.C. 1537a); E.O. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112; sec. 10, Pub. L. 93–205, 87 Stat. 896, as amended by secs. 2 and 3, Pub. L. 94–359, 90 Stat. 3760; sec. 7, Pub. L. 96–359, 90 Stat. 911 and 912; sec. 5, Pub. L. 95–632, 92 Stat. 3760; sec. 7, Pub. L. 96–159, 93 Stat. 1230 (16 U.S.C. 1539); sec. 11, Pub. L. 93–205, 87 Stat. 897, as amended by sec. 6(4), Pub. L. 95–632, 92 Stat. 3761 (16 U.S.C. 1540(b)(2)(f)); sec. 13(d), 86 Stat. 905, amending 85 Stat. 480 (16 U.S.C. 742j–1); Title I, sec. 112, Pub. L. 92–522, 86 Stat. 1042, as amended by Title II, sec. 201(e), Pub. L. 96–470, 94 Stat. 2241 (16 U.S.C. 1382); 65 Stat. 290 (31 U.S.C. 483(a)).

3. Add a new § 13.5 to read as follows:

§ 13.5 Information collection requirements.

The information collection requirements contained within this Part 13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The obligation to respond is required to obtain or retain a permit.

Subpart B—Application for Permits

4. In § 13.11, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 13.11 Procedure for obtaining a permit.

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3–200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) Migratory bird banding permits (50 CFR 21.22)—Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR Part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR Part 21) and Bald or Golden eagle permits (50 CFR Part 22)—Special Agent in Charge of the Law Enforcement District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) Feather quota (50 CFR Part 15), injurious wildlife (50 CFR Part 16), endangered and threatened species (50 CFR Part 17), marine mammal (50 CFR Part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR Part 23)—U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

(c) *Time notice.* Applications for endangered species permits and marine mammal permits should be received by the Federal Wildlife Permit Office at least 75 calendar days prior to the desired effective date of the permit. Applications for other permits should be received by the issuing office at least 30 calendar days prior to the desired effective date. Although the Service will process all applications as quickly as possible, it cannot guarantee final action within such time frames.

(d) *Permit fees.* (1) Applications for permits, certificates, licenses and registrations, and for their renewal and amendment, must be accompanied by an application fee in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Application fees shall not be refunded if the permit is issued or if the application is denied or abandoned. The fee may be returned if an application is withdrawn prior to significant processing by the issuing office.

(2) Application fees shall be $25 unless specified in section (d)(4) as "Nonstandard." Where the regulations in this subchapter require more than one type of permit for a given transaction or series of transactions, the issuing office shall, wherever feasible, issue a single permit containing all the necessary authorizations, and charge a single application fee. In such a case the fee is the highest single permit fee applicable for the transaction. (For example, an application to import an animal which is a marine mammal and an endangered species requires permits under Parts 17 and 18 of this Subchapter. The processing of the application will be consolidated and one permit will be issued containing the necessary authorizations under Parts 17 and 18. The fee will be $100, which is the application fee for a marine mammal permit).

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) *Nonstandard fees.*

Type of permit	Fee
Import/Export License (Section 14.93)	$50
Marine Mammal (Section 18.31)	100
Migratory Bird (Part 21)	None
Bald or Golden Eagles (Part 22)	None

(5) Section 13.13 is revised to read as follows:

§ 13.13 Abandoned applications.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information, pay the requisite fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned.

(6) Section 13.14 is revised to read as follows:

§ 13.14 Insufficient fee.

No permit shall be issued until the proper fee is received. The reviewing office shall notify the applicant upon discovery that the proper fee has not been received.

(7) Section 13.21 is amended by revising paragraphs (b)(1) and (d) as follows:

§ 13.21 Issuance of permits.
* * * * *

(b) * * *

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

* * * * *

(d) The applicant shall be notified in writing of the denial of any application for a permit and the reasons therefor.

(8) Section 13.24 is revised by adding the following new sentences at the end thereof:

§ 13.24 Renewal of permit.

The Director's intent not to renew a permit or to renew it in substantially amended form shall be made known in writing to the permittee. The written notice shall contain the reasons for the Director's action and shall allow the permittee an opportunity, in writing or in person, to present reasons why the permit should be renewed or should not be substantially amended.

9. A new § 13.32 is added to read as follows:

§ 13.32 Appeal procedure.

(a) Any person in the following categories may appeal the Service's action:

(1) An applicant who has received written notice that his application has been denied;

(2) A permittee or applicant who has received written notice that a requested amendment of a term or condition of his permit has been denied;

(3) A permittee who has been notified that his permit has been recalled, amended on the Service's motion, revoked or suspended during its term;

(4) A permittee whose permit or amendment has been issued, but who has not been authorized to conduct part of the requested activity, or believes that modifications made to the requested activity are unacceptable.

(b) The appeal shall be submitted in writing to the office which took the action being appealed within 60 days of the date of notification of the action taken. It must address the reasons given for such action but may also contain new information or justification why the action in question should not be taken. Such further submissions shall not be considered a new application.

(c) A decision on the appeal shall be made within 30 days of receipt of the appeal and the issuing office shall notify the appellant in writing of its decision, and the reasons therefor.

(d) If the decision is not in favor of the appellant, the appeal file shall be forwarded by the issuing office to the Regional Director or Director as appropriate.

(e) The Regional Director or the Director may utilize such staff as necessary in assisting him to decide on the appeal. He may delegate this decision as authorized by Service procedure, provided that it may not be delegated to the issuing office. The appellant may offer arguments or additional evidence to the Regional Director or the Director, in writing or in person.

(f) The decision of the Regional Director or the Director shall be made within 60 days of receipt of appeals pursuant to paragraph (d) of this section and promptly communicated in writing to the appellant, along with the reasons therefor, except that the Regional Director or Director may extend the 60-day period for good cause notified in writing to the appellant.

(g) The decision of the Regional Director or the Director shall constitute the final administrative decision of the department.

10. Section 13.41 is revised to read as follows:

§ 13.41 Recall and amendment of permit during its term.

Except for marine mammal permits (See Part 18), all permits are issued subject to the condition that the Service reserves the right to recall and amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified. Permittees shall be notified in writing of such intent and the reasons therefor not less than 30 days prior to the proposed date of such action and shall be allowed an opportunity, in writing or in person, to present reasons why the permit should not be recalled or amended.

PART 16—INJURIOUS WILDLIFE

Subpart C—Permits

11. In § 16.22, paragraphs (a) and (b)(3) are revised to read as set forth below, paragraph (b)(4) is removed and a new paragraph (d) is added.

§ 16.22 Injurious wildlife permits.

* * * * *

(a) *Application requirements.* Applications for permits to import or ship injurious wildlife for such purposes shall be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203. Each application must be submitted in writing on a Federal Fish and Wildlife License/Permit application (Form 3–200) provided by the Service and must include as an attachment all of the following information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported and possessed;

(2) The purpose of such importation or other acquisition, transportation and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) A statement of the applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) * * *

(3) Permittees shall notify the nearest Special Agent-in-Charge (see § 10.22 of this chapter) by telephone or other expedient means within 24 hours following the escape of any wildlife imported or transported under authority of a permit issued under this section, or the escape of any progeny of such wildlife, unless otherwise specifically exempted by terms of the permit.

* * * * *

(d) The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Supbart C—Endangered Wildlife

12. In § 17.22, paragraphs (a) and (c) are revised to read as follows and a new paragraph (e) is added:

§ 17.22 Permits.

* * * * *

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the activity prohibited by § 17.21. Each application must be submitted on an official application (Form 3–200) provided by the Service, and must include as an attachment, all of the following information:

* * * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a résumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this Section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

* * * * *

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

* * * * *

(e) *Objection to permit issuance.* (1) In regard to any notice of a permit application published in the **Federal Register**, any interested party that objects to the issuance, in whole or in part, of a permit, may, during the comment period specified in the notice, request notification of the final action to be taken on the application. A separate written request shall be made for each permit application. Such a request shall specify the Service's permit number of the application in question and state the reasons why that party believes the applicant does not meet the issuance criteria contained in §§ 13.21 and 17.22 or 17.23 of this Subchapter or other reasons why the permit should not be issued.

(2) If the Service decides to issue a permit contrary to objections received pursuant to paragraph (e)(1) of this, then the Service shall, at least ten days prior to issuance of the permit, make reasonable efforts to contact by telephone or other expedient means, any party who has made a request pursuant to paragraph (e)(1) of this section and inform that party of the issuance of the permit. However, the Service may reduce the time period or dispense with such notice, if it determines that time is of the essence and that delay in issuance of the permit would: (i) harm the specimen or population involved; or (ii) would unduly hinder the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (e)(1) of this section of the final action taken on the application, in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (e)(2) of this section, it will include its reasons therefor in such written notice.

Subpart D—Threatened Wildlife

13. In § 17.32, paragraphs (a), and (a)(6)–(a)(8) and (c) are revised and paragraph (a)(9) is added to read as follows:

§ 17.32 Permits—general.

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the prohibited activity. Each application must be submitted on an official application (Form 3–200) provided by the Service, and must include, as an attachment, as much of the following information which relates to the purpose for which the appplicant is requesting a permit.

* * * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a résumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal Wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

* * * * *

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the special condition that: (1) The escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

14. In Section 17.40, paragraph (a)(1)(i)(A) is revised and paragraph (a)(2) is removed to read as follows:

§ 17.40 Special rules—mammals.

(a) * * *

(1) * * *

(i) * * *

(A) Except as allowed in paragraph (a)(1)(i)(B) of this section, it shall be unlawful to import any such wildlife for commercial purposes.

* * * * *

(2) (Removed).

Dated: June 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–19190 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Export of Bobcat Taken in the 1981–82 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of suspension of a certain rule.

SUMMARY: The Fish and Wildlife Service is suspending for 4 months the final rule published on October 24, 1981 (46 FR 50774) authorizing export, pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of bobcat (*Lynx rufus*) taken during the 1981–82 season. This action is being taken to conform with a court injunction prohibiting the Service from authorizing the export of bobcats.

DATE: The suspension of the rule authorizing export of bobcats taken during the 1981–82 season is effective immediately upon publication. The rule will be suspended for a period of 4 months.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: On October 14, 1981, the Fish and Wildlife Service published a final rule (46 FR

50774) authorizing the export of bobcats and other species taken during the 1982–82 season. The effective date of the rule for bobcats was postponed for 60 days to allow the Service to seek vacation of an injunction issued by the United States District Court for the District of Columbia prohibiting the Service from authorizing export of bobcats until it promulgated new guidelines and made findings on the basis of those guidelines. Because the court then rejected the Service's motion to vacate the injunction, the Service remains under an injunction prohibiting it from authorizing the export of bobcats harvested on or after July 1, 1982.

The Service suspended the rule for another 6 months beginning January 12, 1982 (47 FR 1294), to allow time to analyze the court's decision and to take appropriate steps. Guidelines for export of bobcats in the 1982–83 season are being developed to satisfy court requirements. Therefore, the Service is suspending the rule authorizing the export of bobcats taken in the 1981–82 season for an additional 4 months, during which time final guidelines and export findings for the 1982–83 season will be developed and presented to the court. Another notice will then be published to announce whether or not bobcats taken in the 1981–82 season may be exported.

Notice of Suspended Regulation

PART 23—ENDANGERED SPECIES CONVENTION

§ 23.52 [Suspended in part]

The regulation at 50 CFR 23.52(e), Bobcat (*Lynx rufus*), 1981–82 Harvest, is suspended for 4 months.

Dated: June 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19236 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2712-127]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inseason adjustment and closure.

SUMMARY: The Secretary of Commerce issues this notice to adjust the commercial coho quota, and to close the commercial season for all salmon species in the fishery conservation zone between Cape Falcon, Oregon, and the Oregon-California border (subareas C and D) on July 12, 1982. The Director, Northwest Region, National Marine Fisheries Service, has determined that the adjusted commercial quota of 458,000 coho salmon for these two subareas will be reached by that date. The quota is adjusted downward by 30,000 coho to allow for hooking mortality of coho during the season for all salmon species except coho which opens upon the closure of the all-salmon-species season. This action is to ensure that quotas for coho salmon are not exceeded in 1982.

EFFECTIVE DATES: Adjustment of coho quota and closure of the all-salmon-species season in subareas C and D to commercial salmon fishing is effective from 1200 hours Pacific Daylight Time (PDT), July 12, 1982, until 2400 hours, Pacific Standard Time December 31, 1982.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way, BIN C15700, Seattle Washington 98115; telephone 206–527–6150.

SUPPLEMENTARY INFORMATION: Emergency regulations implementing a 1982 amendment to the fishery management plan (FMP) for the Commercial and Recreational Fisheries off the Coasts of Washington, Oregon, and California were published in the **Federal Register** (47 FR 21256) for the commercial fishery north of Cape Blanco, Oregon, and the coastwide recreational fisheries. These emergency regulations became effective on May 14, 1982, for a 45-day period and were extended for an additional 45 days, on June 28, through August 11, 1982 (47 FR 28105).

On June 1, 1982, the Secretary of Commerce (Secretary) implemented an emergency interim rule (47 FR 24134), under authority of section 305(e)(2) of the Magnuson Fishery Conservation and Management Act, to set in place management measures similar to those contained in a Secretarial Amendment to the FMP. These emergency regulations became effective on June 1, 1982, for a 45-day period.

The regulations specify at § 661.22(a)(2) that when the Director, Northwest Region, National Marine Fisheries Service (Regional Director), projects that a subarea quota will be reached by a certain date, the Secretary shall, by publishing a field order in the **Federal Register**, close the fishery as of the date the quota will be reached in that subarea.

The regulations also specify at § 661.22(b)(2) that the Regional Director is to estimate the number of coho salmon that will be hooked and released during the late commercial seasons for all salmon species except coho in subareas C and D (these seasons commence upon the closure of the seasons for all salmon species including coho). The Secretary, then, is to reduce the commercial coho quota for subareas C and D by publishing a field order in the **Federal Register.**

The coho quota specified in § 661.22(a)(1) for the commercial fishery in subareas C and D is 488,000 coho salmon. The quota is hereby adjusted downward to 458,000 to take into account estimated hooking mortality of coho during the all-salmon-species-except-coho seasons as provided for in § 661.22(b)(2). Based on the most recent catch data supplied by the California Department of Fish and Game (CDFG) and the Oregon Department of Fish and Wildlife (ODF&W), the commercial fishery in subareas C and D will reach the adjusted 458,000 coho salmon quota by July 12, 1982. The Secretary therefore issues this notice that the commercial season for all salmon species in subareas C and D will be closed effective 12 o'clock noon, PDT, July 12, 1982. This notice does not affect seasons for other subareas specified in the 1982 regulations. The commercial season for all-salmon-species except coho in subareas C and D will commence upon the closure of the all-salmon species season, and the recreational season will continue until the recreational quota is taken. Consultations were held with the Directors of CDFG and ODF&W regarding the approach of the season closure. On the basis of that consultation, the Regional Director determined that no basis exists for adjusting the quota for subareas C and D as provided for in § 661.22(b)(1), with respect to the contribution of private hatchery coho to established quotas.

As provided under § 661.22(c), all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review at the above address during normal working hours.

This action is taken under the authority of 50 CFR 661.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 et seq.)

Dated: July 12, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-19177 Filed 7-12-82; 3:44 pm]

BILLING CODE 3510-08-M

Proposed Rules

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

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.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 456

Freedom of Information Act Regulations

AGENCY: National Capital Planning Commission.

ACTION: Proposed rule.

SUMMARY: The Commission's Freedom of Information Act (FOIA) Regulations were last published in the **Federal Register** on May 16, 1975 (40 FR 21544) in the Notices Section. At its meeting on April 15, 1982, the Commission authorized publication of proposed amendments to its regulations to increase the Commission's fees for the production of materials, institute search fees, and establish a minimum fee, and to reflect the current Commission staff organization, official agency hours, and staff member principally responsible for FOIA matters. Since the Commission's FOIA regulations have not previously been published as regulations in the Code of Federal Regulations, the entire text of the regulations, including the amendments discussed above, are published for comment.

DATE: Comments must be submitted on or before August 16, 1982.

ADDRESS: Send comments to Daniel H. Shear, Secretary, National Capital Planning Commission, Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Edward H. Rickels, Records Management Officer, National Capital Planning Commission, Room 1007, 1325 G Street, NW., Washington, D.C. 20576, telephone (202) 724–0209.

List of Subjects in 1 CFR Part 456

Freedom of information, Administrative practice and procedure (Government agencies).

Part 456 is added to 1 CFR to read as follows:

PART 456—NATIONAL CAPITAL PLANNING COMMISSION (FREEDOM OF INFORMATION ACT REGULATIONS)

Sec.
456.1 Introduction.
456.2 Organization.
456.3 Public access to information.

Authority: 5 U.S.C. 552.

§ 456.1 Introduction.

The following regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552 (hereinafter the "Act"), and provide procedures by which information may be obtained from the National Capital Planning Commission (hereinafter the "Commission"). Official records made available pursuant to the Act shall be furnished to members of the public as prescribed herein.

§ 456.2 Organization.

(a) The Commission is the central planning agency for the Federal Government in the National Capital. The Commission is composed of (1) ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the Chairman of the Committees on the District of Columbia of the Senate and the House of Representatives, or their alternates, and (2) five citizens, three of whom are appointed by the President, and two of whom are appointed by the Mayor of the District of Columbia.

(b) The Commission is assisted by a staff headed by an Executive Director. The staff is organized functionally as follows:

(1) Office of the Executive Director;
(2) Office of the General Counsel/Secretary to the Commission;
(3) Office of Administration;
(4) Office of Public Affairs;
(5) Planning and Programming Division;
(6) Review and Implementation Division; and
(7) Technical Services and Special Studies Division.

§ 456.3 Public access to information.

(a) *General policy.* It is the Commission's general policy to facilitate the broadest possible availability and dissemination of information to the public. The Commission's staff is available to assist the public in obtaining information formally by using the procedures herein or informally by discussions with the staff. The Commission's staff may, therefore, continue to furnish informally to the public information which, prior to the amendments to the Act contained in Pub. L. 93–502, enacted November 21, 1974 was customarily furnished in the regular performance of their duties, provided the staff do so in a manner not inconsistent with these regulations. In addition, to the extent permitted by other laws, the Commission will make available records which it is authorized to withhold under the Act when it determines that such disclosure is in the public interest.

(b) *Established place of obtaining information.* Information may be obtained only from the Commission's offices, which are located at 1325 G Street, NW., Washington, D.C. 20576. Its official hours are 8:00 A.M. to 6:00 P.M., Monday through Friday, excluding legal holidays.

(c) *Information sources within the Commission.* Requests for Commission publications, offered for sale or informal requests for general information on the Commission should be directed to the Office of Public Affairs. All formal requests for agency records pursuant to the Act must be directed to the Commission's Records Management Officer. Any request directed initially to the wrong information source will be correctly routed by the Commission's staff and the requesting party will be so notified. The ten-day time period within which the Commission is required to determine whether to comply with a request shall not begin to run until the request reaches, or with the exercise of due diligence should have reached, the appropriate information source.

(d) *Information routinely available.* The following types of information shall be routinely available (subject to the fee schedule, infra) for public dissemination without recourse to the Commission's formal information request procedures unless such information falls within one of the exemptions to agency disclosure listed in 5 U.S.C. 552(b):

(1) Correspondence between the Commission and the public;
(2) Executive Director's Recommendations;
(3) Committee Reports;

(4) Commission Memorandums of Actions; and

(5) Maps.

Requests for information, other than maps, shall be directed to the Commission's Record Management Officer; map requests shall be directed to the Office of Public Affairs.

(e) *Formal requests for information.* All formal requests for information pursuant to the Act shall be made in writing to the Commission's Records Management Officer. To expedite internal handling of such requests, the words "Freedom of Information Request" shall appear on the face of the envelope bearing such request. The request shall state that the request is made pursuant to the Freedom of Information Act; shall reasonably describe the information sought, including the date the Commission received or produced the requested information, if known; shall state, pursuant to the fee schedule set forth infra, the maximum fee the party making the request would be willing to pay for the duplication of the requested records without further approval; and shall, if possible, provide a telephone number at which the requesting party can be contacted to facilitate handling of the request.

(f) *Commission response to formal requests.* The Commission's Records Management Officer, upon request for information made in compliance with these regulations, shall determine within ten days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor and of the right of such person to appeal to the head of the agency any adverse determination. In unusual circumstances as specified infra, the ten-day time limit may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from establishments that are separate from the Commission's offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(g) *Determination to grant request.* If the Commission's Records Management Officer makes a determination to grant a request in whole or in part, the person making such request will be so notified in writing. The notice shall also include a description of the information to be made available, a statement of the time when and the place where such information may be inspected or, alternatively, the procedure for duplication and delivery (by mail or other means) of the information to the requesting party and a statement of the total fees chargeable to the requesting person pursuant to the fee schedule infra.

(h) *Determination to deny request—appeal procedure.* If the Commission's Records Management Officer makes a determination to deny, in whole or in part, a request for information, he shall so notify the party making the request in writing. Any appeal of such determination shall be made in writing to the Chairman of the Commission and shall include a brief statement of the legal, factual, or other basis for the party's objection to the initial decision. The Chairman shall, within twenty days (excepting Saturdays, Sundays, and legal holidays) of the receipt of any such appeal determine whether to grant or deny the appeal and shall, immediately upon making his decision, give written notice of the decision to the party, including a brief statement of the reasons therefor.

(i) *Waiver.* Whenever a waiver of any of the procedures set forth herein would further the purpose of the Act by causing the public disclosure of nonconfidential information within the time period required by the Act, the Commission's Records Management Officer may, in the context of individual requests for information, waive any of the procedural requirements herein.

(j) *Schedule of fees.* (1) The Commission may charge the following fees for the production of information pursuant to the Act:

(i) Publications offered for sale—as marked.

(ii) Commission reports—$0.25/page.

(iii) Committee reports—$0.25/page.

(iv) Commission Memorandums of Actions—$0.25/page.

(v) Transcripts of Commission meetings and Committee meetings—$0.25/page.

(vi) Other records—$0.25/page.

(vii) Maps—microfile printout—$1.00/each; ozalid maps—$0.30/linear foot.

(viii) Manual record research—$2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

(2) The Commission keeps on file a limited quantity of back copies of Executive Director's Recommendations, Committee Reports, and Commission Memorandums of Actions. The Commission will first attempt to fill specific requests for these documents from its supply of back copies and until the supply is exhausted, the Commission will provide the documents at no charge. Once the supply is exhausted, the requested documents will be provided in accord with the fee schedule.

(3) The minimum fee for the production of information will be $2.00. The Commission's Records Management Officer may waive fees when less than $2.00 or when it is in the public interest to do so. Such a waiver will be in the public interest, for example, when in the determination of the Commission the request will not impose an undue burden or expense upon it and the request is: (i) From another Government organization, Federal, State or local; (ii) for the purpose of obtaining information primarily for the benefit of the general public rather than for the primary benefit of the requester, as will be the case with certain requests from news media and from organizations engaged in a nonprofit activity designed for public safety, health, welfare, or education; (iii) from employees and former employees seeking information from their own personnel records; (iv) from or on behalf of the defending party in connection with a proceeding against such party by the Federal Government; and (v) from a low-income person and the fee would impose a financial hardship.

(k) *Prior approval or advance deposit of fees.* (1) Where the fees anticipated to result from a request are substantially greater than the amount estimated in the written request, the person requesting the information shall be immediately notified of the estimated fees and his approval of such fees requested. Such person shall also be afforded the opportunity to revise his or her request to reduce the fees but satisfy his or her needs for information.

(2) The Commission's Records Management Officer may require that the person requesting information make

an advance deposit of the estimated fees.

(3) The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Commission's Records Management Officer, the period pursuant to 5 U.S.C. 552 and paragraph (f) of this section within which the Records Management Officer must respond to a written request for information.

(l) *Payment of fees.* Fees charged a person for the production of information must be paid in full prior to release of the information. In the event that the person is in arrears for previous requests to the Commission for information, no information will be provided for any subsequent requests until the arrears have been paid in full. Payment of fees shall be made by a personal check, postal money order or bank draft on a bank in the United States, made payable to the order of the Treasurer of the United States.

Daniel H. Shear,

Secretary.

July 12, 1982.

[FR Doc. 82-19154 Filed 7-14-82; 8:45 am]

BILLING CODE 7520-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Proposed Handling Regulation

AGENCY: Agricultrual Marketing Service. USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1982–83 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due July 30, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act. Information collection requirements contained in this regulation (7 CFR Part 967) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0082.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect cost for the directly regulated handlers.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. It is effecive under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 9.

The committee recommended a Marketable Quantity of approximately 7.5 million crates of fresh celery for the 1982–83 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

The recommended Marketable Quantity is two-thirds more than the approximately 4.5 million crates expected to be marketed fresh during the current season ending July 31, 1982. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1981–82 total Base Quantities is authorized for new producers and for increases by existing producers, with the only application, for a 80,000 crate increase, being approved.

To maximize the benefits of orderly marketing the proposed regulation should become effective as early as possible in August, when the marketing year begins. Interested persons were given an opportunity to comment on the proposal at an open public meeting on June 9, where it was unanimously recommended by the committee. This proposal is similar to regulations in effect for past seasons. It is hereby determined that the period allowed for comments should be sufficient under these circumstances and will effectuate the declared policy of the act.

On the basis of all considerations it is further determined that this proposed regulation would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

It is proposed that § 967.317 (46 FR 44977, September 9, 1981) be removed and a new § 967.318 be added as follows:

§ 967.318 Handling regulation; marketable quality; and uniform percentage for the 1981–82 season beginning August 1, 1982.

(a) The Marketable Quantity established under § 967.36(a) is 7,503,282 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

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

Dated: July 9, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-19193 Filed 7-14-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-Rm-78-110]

Energy Conservation Program for Consumer Products; Determination by Department of Justice That Department of Energy's Proposed Rule Not to Issue Mandatory Energy Efficiency Standards With Respect to Certain Home Appliances Will Not Have Any Adverse Effects on Competition

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Publication of the Department of Justice determination.

SUMMARY: Today's notice publishes the Attorney General's determination of the impact of any lessening of competition likely to result from DOE's proposal not to issue mandatory energy efficiency standards with respect to certain home appliances. The Department of Justice does not believe DOE's proposed determination will have any adverse effects on competition in those markets.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585 (202) 252-9510

SUPPLEMENTARY INFORMATION:

Background

The Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619), as a general matter, requires that the Department of Energy (DOE) prescribe an energy efficiency standard for each of certain major household appliances, unless it determines by rule that a standard will not result in significant conservation of energy, it is not technologically feasible, or is not economically justified.

In its April 2, 1982, notice in the Federal Register, DOE proposed the issuance of no mandatory efficiency standards for the following appliances: refrigerators and refrigerator-freezers; freezers; clothes dryers; water heaters; room air conditioners; kitchen ranges and ovens; central air conditioners; and furnaces. (47 FR 14424, April 2, 1982.) As part of the proposal, DOE tentatively concluded that energy efficiency standards for these appliances would not result in a significant conservation of energy or be economically justified.

By letter dated April 1, 1982, in accordance with Section 325(d)(5), of the Act, DOE requested the Attorney General's determination of the impact of any lessening of competition that is likely to result from DOE's proposal not to issue mandatory energy efficiency standards. DOE has received, by letter dated May 5, 1982, the determination of the Department of Justice. The text of the Justice Department letter is set out below.

Issued in Washington, D.C., June 29, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

May 5, 1982.

Honorable James Edwards,
Secretary of Energy, Washington, D.C. 20500

Dear Secretary Edwards: This is in response to a letter of April 1, 1982, from R. Tenney Johnson, General Counsel of the Department of Energy ("DOE"), requesting the Attorney General's determination, pursuant to 42 U.S.C. 6295(d)(5) (hereafter, "the statute"), of "the impact of any lessening of competition . . . that is likely to result from" DOE's determination not to issue mandatory energy efficiency standards with respect to certain home appliances.* 47 FR 14424 (April 2, 1982).

The import of DOE's determination is that the Federal government is declining to regulate this set of markets with respect to energy efficiency, leaving the development of energy-efficient appliances to consumers' and manufacturers' choices in the marketplace. The Department of Justice does not believe that this determination will have any adverse effects on competition in these markets.

Sincerely,

William F. Baxter,

Assistant Attorney General, Antitrust Division.

[FR Doc 82-19033 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

*The appliances are refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, kitchen ranges and ovens, central air conditioners, and furnaces. In each case, DOE has specifically concluded that the burden of an efficiency standard would outweigh the benefits. 47 FR 14435-54 (April 2, 1982). This rulemaking determination, pursuant to 42 U.S.C. 6295(b)(2), would, once effective, appear to override permanently the Secretary's duty under 42 U.S.C. 6295(a) to prescribe standards for these appliances.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-8]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before, the dates shown in the summaries.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.————. 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22818	Air Transport Association	Description of petition: To amend Part 121 Appendix H for incremental implementation and approval of advanced simulators from Phase I through Phase III. There are substantial costs involved in obtaining approval through Phase III. An operator is required to transit from Phase I to Phase II and III at required times or else lose the authority granted in Phase I. The proposed amendment would continue any authority in the appropriate phases without regard to time constraints, would provide for additional authorities in the various phases, and eliminate some of the equipment capability requirements in the various phases. Regulations affected: 14 CFR Part 121 Appendix H

Note: This petition was previously published. The comment period is extended until Sept. 13, 1982 due to the implications on domestic and international operations.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
None this period.		

[FR Doc. 82-19181 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 21

[Docket No. 23123; Notice No. SC-82-2-CE]

Special Conditions: Beech C90 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed amendment to special conditions.

SUMMARY: This notice proposes to amend Special Conditions set forth in FAA letters to Beech Aircraft Corporation (Beech) dated January 21, February 15, and February 27, 1963, and May 5, 1965, to permit their application to the Beech Model C90A airplane as well as future derivative C90 airplanes. The FAA has determined that these special conditions originally developed for the Beech Model C90 airplane are also applicable to other Beech C90 series airplanes and the amendment will allow future Beech C90 derivative airplanes to be added to the type certificate without revising the special condition document.

DATE: Comments must be received on or before August 15, 1982.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 23123, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106. All comments must be marked: Docket No. 23123. Comments may be inspected in the Docket file between 7:30 am and 4:00 pm on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Room 1659, Federal Office Building, Kansas City, MO 64106, Telephone: (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed amendment to the special conditions by submitting such written data, views, or arguments as they desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The certification basis for the Beech C90 series airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, through Amendment 3-2, effective August 12, 1957; Amendment 3-6, effective September 13, 1961; Amendment 3-7, § 3.705, effective May 3, 1962; Amendment 3-8, effective December 18, 1961; Part 23 of the Federal Aviation Regulations (FAR), Amendment 23-7 §§ 23.959, 23.1111 and 23.1583(a), effective September 14, 1969; Amendment 23-23 §§ 23.1385(c), 23.1387(a) and 23.1545, effective December 1, 1978; Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965; Part 36 of the FAR, effective December 1, 1969, through Amendment 36-10; SFAR 27, effective February 1, 1974, through Amendment 27-4; and any other special conditions that may result from this proposed action.

Special Conditions may be issued and amended as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR's do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 21.16 and 21.101(b)(2) of the FAR's and become part of the type certification basis in accordance with § 21.17(a)(2) of the FAR's.

Background

On September 14, 1980, Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201, submitted an application to amend Type Certificate (TC) No. 3A20 to add a new Model C90A airplane in the normal category. The Beech Model C90A airplane, a low wing, turbopropeller, pressurized airplane, is identical to the Beech Model C90 except

for its new engine cowling with an exhaust heated inlet lip, oil cooler intake and discharge isolated from engine intake and bypass passages, and the electrical power distribution system which is of the multiple bus type. Both the Model C90 and the C90A airplanes have a maximum gross weight of 9650 pounds and seats for no more than 10 occupants. Because the Beech Model C90 airplane design included novel and unusual features for an airplane type certificated under Part 3 of the CAR and the applicable airworthiness requirements did not contain adequate or appropriate safety standards at that time, special conditions were developed (as outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965) to ensure a level of safety equivalent to that established in the regulations. These special conditions for type certification of the Beech Model C90 airplane are applicable to Beech Model C90A and other C90 series airplanes for the same novel or unusual features for which these special conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965, to all Beech C90 series airplanes, as appropriate, to Type Certificate No. 3A20 without revising the special condition documents. This does not preclude the application of later amendments under the provisions of §§ 21.101(b)(1) of the FAR's or the issuance of special conditions that may be necessary under the provisions of § 21.101(b)(2) of the FAR's for future C90 series airplanes.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, and safety.

The Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965 for type certification of the Beech Model C90 airplane under Type Certificate No. 3A20 by amending its applicability to read as follows:

"Special Conditions for the type certification of Beech C90 series airplanes under Type Certificate No. 3A20."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423); section 6(c), Department of Transportation Act (49 (U.S.C.1655(c); Sections 11.28 and 11.29(b) of the Federal Aviation Regulations.)

Note.—This proposal will allow application of current technology to an existing type certificated airplane thereby increasing speed, improving cockpit layout, updating the electrical system and providing an improved airplane for use by the public. For this reason: The FAA has determined that it (1) involves a regulation which is not a major rule under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial number of small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

Issued in Kansas City, MO on June 29, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-18995 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 23190]

14 CFR Part 67

Review of Medical Standards and Certification Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of a review of regulations.

SUMMARY: This notice announces the agency's Medical Standards and Certification Procedures Review and invites interested persons to submit comments for consideration during the review. This review results from comments submitted in response to a rulemaking action recently completed. It will be a complete review of the FAA's medical standards.

DATE: No comment closing date has been established.

ADDRESS: Comments or suggestions for this review may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 23190, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William H. Hark, M.D., Aeromedical Standards Division, Office of Aviation Medicine, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-3802.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982, the Administrator issued Amendment 67-11 (47 FR 16298; April 15, 1982) to Part 67 of the Federal Aviation Regulations (FAR). In the preamble to that amendment, the Administrator announced that, based on the substantive issues raised by commenters to the docket, the FAA would undertake a comprehensive review of the medical standards contained in Part 67 of the FAR. This notice is the agency's initial step toward implementing that review.

The review of the medical standards and certification procedures will be limited to the requirements in Part 67 of the FAR. Interested persons are invited to submit comments or suggestions, either on a specific section or sections, or to Part 67 in general. Comments should include the commenter's name, the FAR section(s) affected, and the title(s) of the section(s). Comments will not be answered individually but may be considered during future rulemaking actions. All comments received will be available for inspection in the FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 5 p.m. weekdays, except Federal holidays.

The FAA received a number of comments on the standards of Part 67 in response to the notice of proposed rulemaking that preceded Amendment 67-11 (Notice No. 80-24; 45 FR 80296; December 4, 1980). In its review of Part 67, the FAA will consider those comments, thus relieving the authors of the need to resubmit.

Persons interested in being placed on the mailing list for future rulemaking actions resulting from this review should request a copy of advisory Circular No. 11-2, Notice of proposed Rulemaking Distribution System, which describes the application procedure. The advisory circular may be obtained by writing to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue, S.W., Washington, D.C. 20591 or by calling (202) 426-8058.

Issued in Washington, D.C., on July 9, 1982.

H. L. Reighard,

Federal Air Surgeon.

[FR Doc. 82-19254 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-195-81]

Amortization of Rehabilitation Expenditures for Low-Income Housing; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 167 of the Internal Revenue Code (Depreciation) relating to the amortization of rehabilitation expenditures for low-income housing.

The proposed regulations relate to amendments made to section 167(k) of the Internal Revenue Code of 1954 by section 3 of the Act of December 17, 1980, (Pub. L. 96-541) and section 264 of the Economic Recovery Tax Act of 1981, (Pub. L. 97-34), section 3 of the Act of December 17, 1980, extends the application of section 167(k) to rehabilitation expenditures incurred prior to January 1, 1984. Section 264 of the Economic Recovery Tax Act of 1981 in certain circumstances increases the maximum amount of rehabilitation expenditures which are properly amortizable over 60 months to $40,000.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 13, 1982. The amendment to the regulations is proposed to be effective with respect to rehabilitation expenditures incurred after December 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-195-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 167(k) of the Internal Revenue Code of 1954. This amendment to the regulations is proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code (68A Stat. 917, 26 U.S.C. 7805).

General Rule

The proposed regulations relate to amendments made to section 167(k) of the Internal Revenue Code of 1954 by section 3 of the Act of December 17, 1980, (Pub. L. 96-541) and section 264 of the Economic Recovery Tax Act of 1981, (Pub. L. 97-34), section 3 of the Act of December 17, 1980, extends the application of section 167(k) to rehabilitation expenditures incurred prior to January 1, 1984. Section 264 of the Economic Recovery Tax Act of 1981 in certain circumstances increases the maximum amount of rehabilitation expenditures which are properly amortizable over 60 months to $40,000. In order for a taxpayer to be entitled to amortize the increased amount, the proposed regulations would require that the rehabilitation be conducted pursuant to a program which is certified by the Department of Housing and Urban Development, a State, or other political subdivision of the United States as providing rental housing for families or individuals of low or moderate income. Further, the program must provide that tenants demonstrating home ownership capabilities be entitled to purchase the dwelling units and that the taxpayer limit the income received from the leasing and the sale of such rehabilitated units. In determining the limit on the income which a taxpayer may earn with respect to such units, deductions under section 168 shall be deemed received under section 167 in accordance with provisions of section 167(a).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideraton will be given to any written comments that are submitted (preferably six 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 made to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act

Although this notice of proposed rulemaking solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and thus not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of this proposed regulation is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions, Depreciation, Low-income housing.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed amendment to the regulations

The proposed amendment to 26 CFR Part 1 is as follows:

§ 1.167 [Amended]

1. Section 1.167(k)-1 is amended by removing "January 1, 1982", and "December 31, 1981", each place that they appear in such section and inserting in lieu thereof "January 1, 1984", and "December 31, 1983", respectively.

2. Section 1.167(k)-2 is amended as follows:

1. Paragraph (a) is amended by removing "December 31, 1981", and inserting in lieu thereof "December 31, 1983".

2. Paragraph (c) is amended by revising the first sentence of subparagraph (1) thereof.

3. A new paragraph (f) is added immediately following paragraph (e). These new and revised provisions read as follows:

§ 1.167 (k)-2 Limitations.

* * * * *

(c) *Maximum amount.* (1) In general, the maximum amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is $20,000 or $40,000 in the case of expenses paid or incurred in connection with a certified program

which satisfies the requirements of paragraph (f) of this section. * * *

* * * * *

(f) *Maximum amount for rehabilitation expenses incurred in connection with a certified program.* (1) In the case of expenditures paid or incurred after December 31, 1980, the maximum amount of rehabilitation expenditures which may be amortized pursuant to section 167(k) with respect to any dwelling unit is $40,000 but only if the other requirements of this paragraph (f) are satisfied.

(2) The rehabilitation of such dwelling unit must be conducted pursuant to a program that is certified as providing low-income rental housing (as defined in § 1.167(k)–3(b)) by the Department of Housing and Urban Development or by the government of a State or other political subdivision of the United States. The program must require the taxpayer to certify to such authority the amount of rehabilitation expenditures (as defined in § 1.167(k)–3(a)). For purposes of the foregoing, the program shall be deemed certified if such program is required by statue or by a contract with such authority to provide low-income rental housing, and such authority agrees to provide a direct or indirect benefit to the taxpayer in connection with such statute or agreement (*e.g.*, an agreement by the authority to repair neighborhood streets or to abate taxes).

(3) Each dwelling unit (as defined in § 1.167(k)–3(c)) must be the principal residence of a family or individual of low or moderate income (as defined in § 1.167(k)–3(b)).

(4) The program shall provide:

(i) That tenants demonstrating home ownership responsibility are entitled to purchase the dwelling units; and

(ii) That the sum of taxable income (as defined in section 63 and the regulations thereunder) from the rental of the dwelling unit and the amount realized (as provided in section 1001(b) and the regulations thereunder) from the sale or disposition of such dwelling unit, if sold, is reasonably expected not to be greater than an amount equal to:

(A) The taxpayer's adjusted basis (as provided by section 1016 and the regulations thereunder) without adjustment for deductions under section 167, reduced by

(B) The net tax benefit realized by the taxpayer from the rental of the dwelling unit.

The net tax benefit is the amount by which the taxpayer's federal income taxes are reduced as a result of deductions under section 167 for such unit, less the amount of tax properly attributable to the net rental income (rental income over deductions attributable to such unit). See section 167(a) for rules relating to the treatment of deductions under section 168 as received under section 167. The net tax benefit shall not be less than zero. In determining the net tax benefit to the taxpayer, net rental income and the deduction under section 167 shall be taken into account annually by multiplying the difference between such income and deduction (which may be less than zero) by the taxpayer's maximum marginal rate of tax on income (in the case of a partnership, the maximum marginal rate of tax imposed by section 1).

(5) The following examples illustrate the provisions of this paragraph (f):

Example (1). On January 1, 1983, A, who is subject to a 50 percent marginal tax rate, placed in service 25 substantially rehabilitated townhouses. The property was rehabilitated in connection with an agreement between City X and A as part of a program operated by City X which is intended to provide housing for low-income individuals. As part of the agreement, City X agreed to abate real property taxes on the rehabilitated property for 5 years and A agreed to certify the total expenditures for the rehabilitation of such housing units and to sell the units after 5 years to those tenants demonstrating home ownership responsibility. A purchased the 25 townhouses located in City X for $1 million. A also borrowed $40,000 per unit which is secured by a 13 percent mortgage on each townhouse. The borrowed money was used to rehabilitate the townhouses which have an adjusted basis of $80,000 each. After completing rehabilitation, A leases the townhouses to low-income individuals for a monthly rental of $460, an amount equal to interest on the mortgage, hazard insurance, and maintenance and operating expenses. As a result, A reasonably expected to have no taxable income from the rental of the townhouses. In 1988, A realizes $49,600 from the sale of the units to tenants who have complied with the terms of the lease for the previous 5 years. Each tenant assumes the unpaid balance of the mortgage on the unit. During the 5 year period that A leased the townhouses, A received a net tax benefit from each unit under section 168 of $10,400 and under section 167(k) of $20,000. Since A and the program meet the requirements of section 167(k)(2)(B) and this paragraph, the maximum amount which A may amortize pursuant to section 167(k) is $40,000 per unit.

Example (2). The facts are the same as in example (1), with the additional fact that the program does not require A to rebuild any dwelling unit unexpectedly destroyed. In 1985, a fire destroys one of the dwelling units. The insurance proceeds received by A from the insurer of the unit exceed the difference between A's adjusted basis (without adjustments for section 167) in such unit and the net tax benefit received by A by virtue of such unit. Although the destruction is a disposition within the meaning of section 167, in 1981 A did not reasonably expect that a fire would occur. Since the program provided for the limitation of income as required by paragraph (f) (4) and since the disposition could not be reasonably forseen by A or X, the provisions of section 167 (k) (2) (B) apply.

Example (3). The facts are the same as in example (1), except that after completing rehabilitation, A leases each townhouse to a low-income individual for a monthly rental of $620 which after expenses provides a taxable income of $160 per month. In 1988, A sells the units to tenants who have compiled with the terms of the lease for the previous 5 years for one dollar and the assumption of the mortgage on the unit. Since A and the program meet the requirements of section 167 (k) (2) (B) and this paragraph, the maximum amount which A may amortize pursuant to section 167 (k) is $40,000 per unit.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–19200 Filed 7–14–82; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 736, 760, 761, 762, 764, 765, and 769

Areas Unsuitable for Surface Coal Mining; Cancellation of Public Hearing on Proposed Rule to Amend 30 CFR Chapter VII, Subchapter F, Areas Unsuitable for Surface Coal Mining

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

ACTION: Cancellation of Public Hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of one of the public hearings scheduled on the proposed rule regarding area unsuitable for surface coal mining because no requests were received to testify at that hearing within the specified time period (3 working days before the date of the hearing). See 47 Federal Register 25278. The Director of the Office of Surface Mining has determined that no hearings are necessary and, in the interest of cost savings, is hereby cancelling the hearing which was scheduled for July 19, 1982, in Washington, D.C.

This notice cancels the public hearing but does not alter the comment period during which interested persons may submit written comments on the proposed rule.

DATES: The following hearing is cancelled.

The public hearing on the proposed rule amending 30 CFR Chapter VII, Subchapter F, scheduled for July 19, 1982, in Washington, D.C.

ADDRESS: Written comments should be mailed or hand delivered to: Carl C. Close, Special Assistant, Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–04), Room 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: On June 10, 1982, the Office of Surface Mining published a proposed rule in the **Federal Register** which would revise 30 CFR Chapter VII, Subchapter F, regulations governing areas unsuitable for surface coal mining. The proposed rule provided for two public hearings to be held to receive comments. It further provided that if no person indicated an intention to testify by 3 working days before the appropriate hearing date, that hearing would be canceled. As of 3 days before the hearing scheduled for Washington, D.C., no persons contacted OSM indicating that they wished to testify. Therefore, in the interest of cost savings, the Director of OSM is cancelling that hearing.

While there will be no public hearing in Washington, D.C., interested persons may still submit written comments on th proposed rule and also may testify at the public hearing to be held in Denver, Colorado on July 22. Written comments must be received on or before 4:00 p.m., on August 25, 1982, to be considered.

Dated: July 13, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection Office of Surface Mining.

[FR Doc. 82–19412 Filed 7–14–82; 9:42 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–4–FRL 2107–8]

Approval and Promulgation of Implementation Plans; Alabama: New Source Review for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to conditionally approve implementation plan revisions submitted by Alabama on March 31, 1981, to satisfy changes made by EPA in 40 CFR 51.18(j) (see the **Federal Register** of August 7, 1980, pp. 52743 ff.). Material necessary to satisfy the conditional approval must be submitted within 12 months from the date of EPA's conditional approval. The public is invited to submit written comments on this proposal.

DATE: To be considered, comments must be received on or before August 16, 1982.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365
Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 S. McDonough Street, Montgomery, Alabama 36130

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881–3043 (FTS 257–3043).

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with 40 CFR 51.4, the Alabama Air Pollution Control Commission adopted changes in § 16.3.2 (Permits to Construct in or near Nonattainment Areas) of its Rules and Regulations. These changes, which are intended to meet the requirements of 40 CFR 51.18(j), as promulgated on August 7, 1980 (45 FR 52743 ff.), were submitted to EPA on March 31, 1981, for approval as implementation plan revisions. In the revisions proposed today are definitions of "source," "potential to emit," "major source," "major modification" and other terms which have been changed to make them consistent with EPA's definitions. In addition several definitions have been added, including "net emissions increase," "significant," "actual emissions," and "commenced." Certain requirements formerly contained in EPA's Interpretative Ruling and included in Alabama's rules have been deleted. These requirements related to sources constructing or modifying in increments; applicability determinations based on increase in allowable emissions by specific hourly, daily or annual amounts; disallowing of credit for emission reduction elsewhere in a facility; and other similiar requirements. Finally, exemptions for sources obtaining permits prior to certain dates have been included.

During EPA's review of Alabama's plan revision, two issues arose regarding the approvability of Alabama's plan. Alabama's new source review regulations do not require that permit provisions be federally enforceable nor that offset credits for source shutdowns be limited to only replacement units. EPA is proposing to conditionally approve the Alabama submittal so that Alabama may revise the state regulations and submit any conforming amendments to their plan within 12 months from date of conditional approval. On February 22, 1982, EPA entered into a settlement agreement with industry petitioners in the Chemical Manufacturers Association litigation. In that agreement, EPA committed to propose regulatory changes regarding the above mentioned issues. As a result of these proposed new source review regulatory changes, conforming amendments may not be necessary. If the 12-month time period expires and EPA is in the process of revising the new source review requirements, but has not finalized the changes, the Administrator could extend the conditional approval data.

Action. EPA today proposes to conditionally approve these changes in the Alabama plan based on the state submitting any necessary conforming amendments within 12 months of the conditional approval. The public is invited to submit written comments on the proposal. After considering relevant comments received together with all other available information, the Agency will take final action.

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

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the location listed in the ADDRESSEES section.

(Sec. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

List of Subjects in 40 CFR Part 52

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

Dated: April 12, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82–19183 Filed 7–14–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AD-FRL-2171-7]

Standards of Performance for New Stationary Sources; VOC Fugitive Emission Sources; Synthetic Organic Chemical Manufacturing Industry; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA published a notice of the availability of an additional information document (AID) concerning fugitive emission sources of volatile organic compounds in the **Federal Register** on May 7, 1982 (47 FR 19724). The notice requested comments which were to be received by July 6, 1982. Commenters, however, have requested a 30-day extension of the comment period to evaluate further the AID. EPA considers this request reasonable and, accordingly, is delaying the end of the comment period until August 6, 1982.

DATES: *Comments.* Comments on the AID must be received by August 6, 1982.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. A-79-32, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Documents. EPA prepared the AID *[Fugitive Emission Sources of Organic Compounds—Additional Information on Emissions, Emission Reductions, and Costs,* EPA-450/3-82-020] to discuss changes in the technical basis to the background information document (BID) *[VOC Fugitive Emissions in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards,* EPA-450/3-80-033a]. The BID and the AID may be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Please refer to PB81-152167 for the BID and PB82-217126 for the AID.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Wyatt, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: EPA proposed standards of performance on January 5, 1981 (46 FR 1136), for fugitive emission sources of volatile organic compounds (VOC) within the synthetic organic chemical manufacturing industry (SOCMI). On April 14, 1981 (46 FR 21789), EPA published a notice in the **Federal Register** that announced the availability of several technical reports completed by EPA's Office of Research and Development (ORD) after the standards were proposed. After EPA reviewed comments on the background information document (BID) published when the standards were proposed and the ORD reports, EPA decided to review the methodologies and data used in the BID to estimate the impacts (emissions, emission reductions and costs) of emission reduction techniques for fugitive emission sources. EPA presented its review of these methodologies and data in an additional information document (AID) and published a notice that announced the availability of the AID on May 7, 1982 (47 FR 19724).

EPA's review of the methodologies and data used in the BID concluded that, although the analysis presented in the BID was reasonably valid, some improvements could be made. Improvements in the methodologies and data used to estimate the impacts of emission reduction techniques were made primarily in emission rate estimates and emission reduction estimates. One of the improvements was the incorporation of leak detection and repair model (LDAR model) for estimating the impacts of a leak detection and repair program.

Commenters have requested an additional 30 days to review the adequacy and use of the LDAR model and to provide comments on it. In view of the fact that commenters want to comment on the use of the LDAR model, it is reasonable to provide additional time for review and comment on it. The comment period is being extended 30 days and, therefore, will close on August 6, 1982. This extension will allow the public adequate time for evaluating and commenting on the use of the LDAR model, as well as other aspects of the AID.

Dated: July 1, 1982.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-19184 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 122, 123, and 124

[FRL 2171-3]

Consolidated Permit Regulations; Revision in Accordance With Settlement: Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking: Correction.

SUMMARY: On Monday, June 14, 1982 the Environmental Protection Agency published a proposed rulemaking entitled Consolidated Permits Regulations; Revision in Accordance with Settlement, appearing at 47 FR 25546-25555. Administrative error resulted in the publication of conflicting dates for a public hearing which is scheduled to consider several of the proposed regulation changes as they relate to the Underground Injection Control (UIC) Program under the Safe Drinking Water Act.

On page 25547, at the bottom of the second column, the Supplementary Information Section, the date for the public hearing reading "July 27, 1982" should read "August 3, 1982." This is consistent with the correct date specified in the Dates paragraph on page 25546.

FOR FURTHER INFORMATION CONTACT: Karen Wardzinski, Office of General Counsel, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0753.

Dated: July 2, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-19185 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 100 through 199

[Docket HM-177]

Trailer-on-Flatcar Transportation of Hazardous Materials

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

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: Docket HM-177 is closed without issuance of a final rule. The notice establishing Docket HM-177 announced a public hearing and solicited comments, data and test results on Trailer-on-Flatcar (TOFC) securement and the effect of a high center of gravity on the safe transportation of hazardous materials in TOFC service. The presentations at the public hearing and the written comments to Docket HM-177 failed to document any adverse shipping experience or safety related problems

when transporting hazardous materials in TOFC service.

FOR FURTHER INFORMATION CONTACT: Hattie L. Mitchell, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: On January 26, 1981, MTB published in the **Federal Register** a notice announcing a public hearing and soliciting comments, data, and test results on Trailer-on-Flatcar (TOFC) securement and the effect of a high center of gravity on the safe transportation of hazardous materials in TOFC service (46 FR 8055). In the Notice, MTB requested that commenters address certain specific factors in relation to TOFC operations, including semitrailers (vans) and freight containers mounted on a chassis.

The Notice was in response to comments concerning the securement and center of gravity effect that were received from the Association of American Railroads (AAR) under Docket HM–167 "Intermodal Portable Tanks," and AAR's petitions for reconsideration of the issuance and renewal of certain DOT exemptions authorizing portable tanks in TOFC service. In its comments addressing an application for exemption, AAR stated that it believed there was an increased risk associated with TOFC securements, i.e., the securement of the portable tank to the motor vehicle chassis and the securement of the motor vehicle chassis to the flatcar. In addition, AAR stated that "* * * the combined center of gravity for the flatcar, chassis, and container is approximately 139" and this grossly exceeds the 98" maximum center of gravity for freight cars allowed by paragraph 2.1.3, AAR Specification M–1002." AAR did not submit any calculations or test data to support its position. However, MTB felt that perhaps some of AAR's assertions had merit. Therefore, MTB prohibited TOFC service in the final rule in Docket HM–167 as an interim measure, and made TOFC service a separate new rulemaking action under Docket HM–177.

Three persons testified at the public hearing under Docket HM–177 which was held in Rosemont, Illinois on February 25, 1981. A representative of AAR stated that AAR took no exception to TOFC operations for intermodal portable tanks, retracting its previous position. The other two commenters did not present any technical information directly related to the factors listed in the Notice. Six written comments were received to the docket. In general, the commenters who addressed the factors listed in the Notice agreed that the combined center of gravity of a flatcar, chassis and portable tank does not exceed the 98" maximum specified for interchange service. Furthermore, the commenters indicated that they had no shipping experience that would indicate that "rock and roll" and double-interfacing securement systems presented any safety problem. No comments have been received since the April 2, 1981, closing date.

Subsequent to the public hearing, AAR submitted comments withdrawing its opposition to TOFC operations for intermodal portable tanks under Docket HM–177 and requested dismissal of the docket. After AAR withdrew its opposition, MTB could see no reason for not permitting TOFC service. An amendment subjecting TOFC service to the same approval requirement as required for container-on-flat car (COFC) service was published in the **Federal Register** under Docket HM–167 on April 30,1981 (46 FR 24185).

In view of the foregoing, MTB concludes that adoption of a formal standard to further limit or restrict hazardous materials transportation in TOFC service is not justified. Docket HM–177 is hereby terminated.

(49 U.S.C. 1803, 1804, 1808; 49 U.S.C. 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C. on July 8, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–19192 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–60–M

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49 CFR Part 175

[Docket No. HM–166J; Notice No. 81–5]

Carriage of Tear Gas Devices Aboard Aircraft

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

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: MTB is withdrawing the Notice of Proposed Rulemaking (Docket HM–166J, Notice No. 81–5) which was published August 10, 1981 (46 FR 40540). In Notice No. 81–5, it was proposed to relax the Hazardous Materials Regulations (HMR) to permit passengers and crewmembers to carry, in checked baggage aboard aircraft, small personal protection devices containing tear gases or pepper extracts. Written comments submitted in response to Notice No. 81–5 indicate the possibility of safety-related problems and operational problems for air carriers, if the proposed rulemaking were promulgated.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh St. SW., Washington, D.C. (202) 426–2075.

SUPPLEMENTARY INFORMATION: In Notice No. 81–5, MTB proposed to provide regulatory relief to the traveling public with regard to the carriage aboard aircraft of personal protection devices containing tear gases. The proposed rule addressed tear gas devices which are subject to the HMR as irritating materials and also devices containing pepper extracts which, although they do not meet the definitions in 49 CFR 173.380 for irritating materials, are subject to the HMR when charged with compressed gases. The proposal was based on problems encountered at airport security screening points where many tear gas devices are discovered being carried by passengers who, in many instances, are not aware that the HMR prohibit the transportation of tear gases, including devices, on passenger-carrying aircraft. The proposed rule would permit a traveler to carry one device, capacity not to exceed two fluid ounces, in his checked baggage if the device were packaged so as to prevent accidental activation. The means by which the device would be packaged was not specified. Carriage in checked baggage was specified in order to preclude commercial shipments and to preclude carriage by a traveler on his person, or in carry-on baggage, in the passenger compartment of an aircraft.

Twelve commenters representing businesses, associations, and individuals responded to the request for comments in Notice No. 81–5. Seven of these commenters supported the rulemaking as proposed, indicating a need for the rulemaking but offering no substantive comment. One commenter indicated that carriage of tear gas devices should be limited to carriage in baggage compartments which are inaccessible to passengers during flight and where, in the event of an accidental release, irritating materials would not affect crewmembers. One commenter suggested that carriage of the devices should be limited to "sealed" cargo compartments because none of the tear gas devices are leak free. One manufacturer of the devices indicates that deficient components can result in leakage. This commenter opposed the proposed rulemaking claiming that poor

handling, improper packaging by a passenger, use of soft luggage, or deficient device components could result in a significant mid-flight release with uncertain results. Both the Air Transport Association of America (ATA) and the International Air Transport Association (IATA) criticized the proposal both because of the safety issue and because of operational problems which the proposal would pose for air carriers. The substance of these comments are reprinted as follows.

ATA:

The Air Transport Association's Restricted Articles Board (RAB), a group of U.S. air carrier representatives from the fields of engineering, chemistry, cargo services, training and safety, take this opportunity to respond to DOT–MTB, R&SPA Notice of Proposed Rulemaking re HM–166J—Carriage of Tear Gas Devices Aboard Aircraft, contained in the Federal Register, Vol. 46, No. 153, dated August 10, 1981. (FR 40540–40541).

The majority of respondents initially suggest that the carriage of any irritant in a passenger's baggage is certainly not recommended. Obviously, it is difficult to determine what a passenger places in "checked" baggage, even though through various means passengers are "warned" against the carriage of any form of hazardous materials in any baggage or on their person.

One member responded totally in opposition to such a proposed relaxation in regulations, which in their opinion, appears to be created only due to the fact that the present regulatory requirement is practically unenforceable.

Another member posed the question, "Does such an amendment to the regulations by its permissiveness create a problem in the future; that is, would this action inadvertently recognize future chemical compositions in such devices which could present a far greater hazard that (sic.) that which is presently indicated?" In this connection, it was felt that most such devices, present or future, would not carry much more advice than a "trade name."

An air carrier potential operational problem, which the new relaxation could create is suggested in the following scenario:

Passengers departing on flights at any given airport will check their baggage other than "carry on" items prior to the "security inspection" points. If a "protection device" is to be discovered, it will be at the time of this inspection. Upon being advised that such device can only be carried in "checked" baggage, rather than forfeit the device, most passengers would request the air carrier to retrieve their baggage so they can stow the device in "checked" baggage.

A number of such individual requests on any given flight could definitely produce additional logistics problems, and add another burden to the workload of the departure operation.

It also appears that these substances do not dissipate as would vapor from carbon dioxide solid, if a release were contained in a cargo bin. Thus, upon discovery of such a condition when unloading an aircraft, a "force air flow procedure" to evacuate the vapor residue would have to be instituted, requiring at least ten minutes. This now adds an additional burden in the workload of an unloading operation.

We would also like to provide the following additional points for your consideration and investigation:

—Exposure to certain of these compounds can produce violent skin reactions to humans;
—Exposure of certain animals to such as CS and mace will cause such violent reaction that animals will scratch and tear at themselves until they bleed to death. (Air carriers do not have the possibility of separating animals from all baggage);
—A great percentage of manufactured luggage today is "soft" luggage, which indents and reshapes easily;
—Depending on the manufacturer of these devices, locking mechanisms are not necessarily "positive" locking devices;
—Depending on the manufacturer of these devices, certain of the pressure vessels themselves will evidently leak at sea level on a hot day.

In conclusion, though not preferring the allowance of these substances on aircraft at all, the members do feel that the "lesser of evils" is the containment (sic.) of these devices in baggage in cargo bins rather than in cabin areas.

IATA:

The International Air Transport Association [IATA] is the trade association of 112 Member airlines worldwide. On behalf if its Members, IATA wishes to make the following comments on the DOT–MTB, R&SPA Notice of Proposed Rulemaking, HM–166J—Carriage of Tear Gas Devices Aboard Aircraft. IATA fully supports the comments which have been submitted by the Air Transport Association of America, and hereby submits the following additional comments.

The proposal to allow tear gas personal protection devices in passengers (sic.) checked baggage is absolutely unacceptable for the following reasons:

1. The IATA Restricted Articles Regulations are presently accepted in many countries as the basic rules concerning the transport of dangerous goods. In the Regulations, tear gas devices are "not acceptable" on passenger aircraft. Even if the U.S. regulations concerning carriage of tear gas devices are relaxed, passengers participating in international travel will encounter difficulties when boarding a flight from the U.S. to a country where such devices are still not allowed.

For example, in the United Kingdom the carriage of any type of tear gas device on passenger aircraft, either as carry-on or checked baggage, is prohibited by law (Ref. Article 41 of UK Air Navigation Order 1980). Also, possession of such devices is illegal in the UK under Section 5 of the 1968 Firearms Act, where they are defined as "munition of war/prohibited weapon". Also, in Canada under Section 88 of the Criminal Code, Prohibited Weapons Order Number 1, tear gas devices are considered to be weapons and persons are therefore prohibited from possessing them. Thus, if U.S. DOT regulations permitted the carriage of tear gas security devices by passengers in checked baggage, it would cause serious problems for passengers with such devices, travelling to the UK and Canada, who would probably not be aware of the laws of those countries.

2. The airlines have no practical means to control observance of the proposed limitations on quantity and required packaging of the devices in passengers' checked baggage. Some personal protection devices have a higher concentration of tear gas substances than others, and it would be difficult for passengers or airline staff to determine the amount, as many of them *only* have a brand name, and not a detailed description of the contenst. The ICAO Technical Instructions on dangerous goods which will come into effect on 1st January 1983, contain stringent packaging requirements for tear gas devices, to prevent accidental activation, and containment of the gas in case of accidental activation. Yet the proposed rule simply requires that "The device is packaged in a manner which will prevent its accidental activation". Who will determine this, the passenger or the airline? In most cases, the airline will not even know that such a device is in checked baggage. We doubt that any passenger would know what packaging is required to "prevent its accidental activation".

3. If the U.S. DOT were to permit the carriage of tear gas devices, it would be difficult to inform passengers of the limitation on capacity of the container and packaging requirements. There are already so many U.S. Government notices required in passengers' tickets, and at airports, that the majority of passengers do not read them. Even if the DOT were to require a notice regarding the tear gas devices to be posted at airports, at that stage it is too late for the passenger to do anything about it, even if he does have such a device in his baggage. Most passengers will simply keep quiet, suspecting that the airline will confiscate the device because it does not meet requirements.

Most tear gas security devices are carried by passengers in their hand baggage. If they are discovered by security search personnel, it is normally too late for the passenger to get the device into his checked baggage, which has already been checked. It is understood that hundreds of such devices are discovered daily by security search personnel at each large U.S. airport. Therefore, the IATA Members would find it unacceptable if the DOT regulations were permit the devices in checked baggage, as it would be physically impossible to get all of them into the checked baggage of the passengers.

For these reasons, the Members of IATA are opposed to the proposed amendments to the Hazardous Materials Regulations.

In response to the above comments, MTB offers the following. First, checked baggage is not normally accessible to passengers on commercial aircraft. It is normally stowed in inaccessible cargo compartments which have little or no interchange of air with passenger cabins. In the event of release of an

irritating material from a device of such size and packaged in the manner prescribed in the proposed rule, MTB believes that there would be little or no hazard posed to persons, animals or property. However, in the absence of historical shipping data or other evidence, MTB only has conjecture to counter allegations of possibly significant hazards. Second, MTB agrees that the proposed rule could pose operational problems for air carriers, at least for that period of time during which the traveling public becomes familiar with the new provisions. Information is not available to determine either the cost of this operational burden, in terms of delays and deteriorated customer relations, or the relative value of the benefits which would accure to air travelers.

The President's Executive Order on Federal Regulation, E.O. 12291, requires, among other things, that new regulations not be established unless there is "adequate information concerning the need for and consequences of" the regulation, and unless "the potential benefits to society from the regulation outweigh the potential costs to society." MTB does not believe there is adequate information available concerning the consequences of the proposed rule nor can MTB establish that societal benefits arising from the proposed regulation would outweigh societal costs.

Based on the comments received, the conclusions reached and the recommendation of the FAA, the Notice of Proposed Rulemaking, Notice No. 81–5, is withdawn and Docket No. HM–166J is hereby terminated without further action.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C. on July 8, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–19191 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

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.

CIVIL AERONAUTICS BOARD

Announcement of Approval of Reporting Forms by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On June 16, 1982, the Office of Management and Budget approved the extension of the following reporting forms:

Schedule 291–A—Balance Sheet; Schedule 291–B—Statement of Operations; and Schedule 291–C—Summary of Traffic and Capacity Statistics (all filed pursuant to section 291.42 of the Economic Regulations) extended to June 30, 1983 under OMB No. 3024–0023.

Form 380–B—Statement of Charter Operator and Direct Air Carrier; Form 380–C—Statement of Charter Operator and Surety Company; and Form 380–D—Statement of Charter Operator, Direct Air Carrier and Depository Bank (all filed pursuant to section 380.50 of the Special Regulations) extended to June 30, 1985 under OMB No. 3024–0029.

Robin A. Caldwell,
Chief, Information Management Division, Office of Comptroller.
July 9, 1982.

[FR Doc. 82–19211 Filed 7–14–82; 8:45 am]
BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended July 9, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (see 14 CFR 302.1701 et. seq.)

Date filed	Docket No.	Description
July 6, 1982	32089 35755	Compania de Aviacion "Faucett," S.A., c/o John D. Lane, Hedrick and Lane, 1211 Connecticut Ave., N.W., Washington, D.C. 20036. Second Amendment to the Application of Compania de Aviacion "Faucett," S.A. further amends its application for renewal to request authority: "to engage in scheduled foreign air transportation with respect to persons, property and mail between terminal points in Peru (Iquitos, Lima and Talara), the intermediate point Panama City, Panama and the terminal points Miami, Florida and/or New York, New York." Faucett proposes to conduct an average of seven (7) round trip flights weekly between terminal points in Peru and terminal points in the United States. Answers may be filed by August 3, 1982.
July 8, 1982	40820	Trans-Air-Link Corporation, c/o Harry A. Bowen, Esq., Bowen & Atkins, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Trans-Air-Link Corporation requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States; b. Authority to engage in all cargo operation between points within the United States and its possessions. Conforming Applications, Motions to modify scope, and Answers may be filed by August 5, 1982.
Do	40819	Trans-Air-Link Corporation, c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Trans-Air-Link Corporation requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and i. Any point in Canada; ii. Any point in Mexico; iii. Any point in Australia, Indonesia, or Asia, as far west as longitude 70 degrees east via a transpacific routing; iv. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Trinidad, Aruba, the Leeward and Windward Islands, and any other place located in the Gulf of Mexico or the Caribbean Sea; v. Any point in Central or South America.

Date filed	Docket No.	Description
		b. Between any point in any State of the District of Columbia, or any territory or possession of the United States and any other point in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, Motions to modify scope, and Answers may be filed by August 5, 1982.
July 9, 1982	40831	Arrow Airways, Inc., c/o Lawrence D. Wasko, Esq., Seamon, Wasko & Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036. Application of Arrow Airways, Inc. requests the Board pursuant to Section 401 of the Act for the issuance or amendment of a certificate of public convenience and necessity authorizing it to engage in foreign air transportation of persons, property, and mail between Denver, Colorado and London, United Kingdom and points beyond. Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.
Do	40832	International Air Associates, Inc., c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of International Air Associates, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States; b. Authority to engage in all cargo operations between points within the United States and its possessions. Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.
Do	40833	International Air Associates, Inc., c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of International Air Associates, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity authorizing it to engage in foreign charter air transportation of property as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and (1) Any point in Canada; (2) Any point in Mexico; (3) Any point in Jamaica, the Bahamas Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico and the Caribbean Sea; and (4) Any point in Central or South America. Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-19212 Filed 7-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40828]

Central Zone-Caracas/Maracaibo, Venezuela Service Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., July 12, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-19213 Filed 7-14-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-7-16	Custom Aviation, Inc	July 27, 1982.
82-7-25	Gull Air, Inc	July 29, 1982.
82-7-26	Colorado Air Freight Express	July 29, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Order 82-7-26 with the Special Authorities Division, Room 915, and for Orders 82-7-16 and 82-7-25 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82-7-16: Barbara Pfeiffer, (202) 673-5354; for Order 82-7-25: Mr. John McCamant (202) 673-5350, and for Order 82-7-26: Ms. Anne W. Stockvis, (202) 673-5088, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-19215 Filed 7-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40827]

Dallas/Ft. Worth-London Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., July 12, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-19214 Filed 7-14-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the decision process of the Snapper-Grouper Fishery Management Plan (FMP); review the Billfish FMP; update progress of the Swordfish FMP; discuss the status of other FMP activities and discuss other management and administrative matters as necessary.

DATES: The public meetings will convene on Monday, August 23, 1982, at approximately 1 p.m., and adjourn on Thursday, August 26, 1982, at approximately noon.

ADDRESS: The public meetings will take place at the Council's Headquarters Office, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle—Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: July 12, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-19210 Filed 7-14-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Grant of Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS), U.S. Department of Commerce, granted to Albany International Corporation an exclusive right in the United States and certain foreign countries for the manufacture, use and sale of the products embodied in U.S. Patent Application Serial Number 252,992 (filed April 10, 1981) "Device for Insect Control," for a term of seven years from date of issuance of a valid claim.

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Dated: July 9, 1982.

Douglas J. Campion,

Acting Program Manager.

[FR Doc. 82-19228 Filed 7-14-82; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

SN 6–047,172 (Patent 4,329,368)
Process for Preservation of Stored Wood Chips
Department of Agriculture

SN 6–054,926 (Patent 4,328,343)
Cobalt-Catalyzed One-Step Synthesis of Annulated Pyrideines
Department of Health and Human Services

SN 6–160,753 (Patent 4,327,710)
Additives in Resaled Erythrocytes for Disseminating Chemicals via the Circulatory System
Department of Agriculture

SN 6–165,336 (Patent 4,328,309)
Method for Producing Tripdiolide Triptolide and Celastrol
Department of Health and Human Services

SN 6–213,446 (Patent 4,328,901)
Multilayer Pressure Vent for Explosion Proof Enclosures
Department of Interior

SN 6–266,462
Histamine Photoaffinity Analog: Specific Irreversible Antagonism of Histamine Receptors by Photoaffinity Actuated Compounds
Department of Health and Human Services

SN 6–286,260 (Patent 4,329,337)
Turkey Semen Extender
Department of Agriculture

SN 6–346,314
Three-Element Antenna
Department of Commerce

SN 6–348,575
Device for Measurement of the Spectral Width of Nearly Monochromatic Sources of Radiant Energy
Department of Commerce

SN 6–348,576
Stabilization Mechanism for Optical Interferometer
Department of Commerce

SN 6–148,491 (Patent 4,324,661)
Apparatus and Method for Continuous Countercurrent Extaction and Particle Seperation
Department of Health and Human Services

SN 6–247,684 (Patent 4,327,233)
Method for Producting Carbocyclic Compounds from Cyclic Sulfide
Department of Commerce

SN 6–140,380 (Patent 4,330,090)
Method for Wrought and Cast Aluminum Separation
Department of the Interior

SN 6–160,752 (Patent 4,330,443)
Dry Chemical Process for Grafting Acrylic and Methyl Acrylic Ester and Amide Monomers onto Starch-containing Materials
Department of Agriculture

SN 6–266,225 (Patent 4,330,509)
Seperation of Zirconium and Uranium
Department of Interior

SN 6–284,088
Highly Potent 6-Keto-Morphinans Belonging to the 14-Hydroxy-Series and Preparation
Department of Health and Human Services

SN 6–284,089
6-Keto-Morphinan Analgesics
Department of Health and Human Services

SN 6–351,588
Method for the Identification and Purification of Human Lung Tumor-Associated Antigens (HLTAA) and Clinical Detection and Determination of these Antigens
Department of Health and Human Services

SN 6–259,766
Inhibition of Neural Decline with Aging
Department of Health and Human Services

SN 6–329,590
Comentitious Dental Compositions which do not Inhibit Polymerization
Department of Health and Human Services

[FR Doc. 82-19232 Filed 7-14-82; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Reactivation and Development Plans for Parks Reserve Forces Training Area; Filing of Environmental Impact Statement

The Army, on 7 July 1982, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the reactivation and development of the Parks Reserve Forces Training Area, California. The DEIS evaluates the environmental impacts associated with (1) the reactivation of Parks Reserve Forces Training Area, and (2) the development of operations associated with the training area. Copies of the statement are being forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of publication from the Commander, Presidio of San Francisco, ATTN: AFZM–FE–EQ (Mr. Maciejewicz), San Francisco, California 94129.

In the Washington area, copies may be seen during normal duty hours in the Construction Management Office, Office of the Chief of Army Reserve, Room 3D369, Pentagon, Washington, D.C. 20310; telephone (202) 697–2753

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

July 7, 1982.

[FR Doc. 82-19231 Filed 7-14-82; 8:45 am]

BILLING CODE 3710-08-M

Defense Criminal Investigative Service

Privacy Act of 1974; Establishment of Systems of Records

AGENCY: Defense Criminal Investigative Service, DOD.

ACTION: Establishment of systems of records.

SUMMARY: The newly chartered Defense Criminal Investigative Service (DCIS) purposes to establish six system of records that will be subject to the Privacy Act of 1974. As the DCIS is a criminal investigative agency two of its systems of records will be exempt from certain provisions of the Privacy Act. The notices for the six systems are set forth below.

DATES: These systems will become effective on August 16, 1982.

ADDRESSES: Address any comments to the System Manager identified for the particular system in the notice for that system.

FOR FURTHER INFORMATION CONTACT: Mr. William G. Dupree, Deputy Director for Operations Defense Criminal Investigative Services, Building B, Room D490, Cameron Station Alexandria, VA 22314. Telephone: 202/274–5360.

SUPPLEMENTARY INFORMATION: In the **Federal Register** for May 25, 1982 (47 FR 22530) the Department of Defense published as a final rule the charter for the Defense Criminal Investigative Service, a new criminal investigative element of the Department. Subsequently on June 22, 1982 at 47 FR 26857, the Defense Criminal Investigative Service published its proposed rules implementing the Privacy Act of 1974, Title 5 United States Code section 552a (Pub. L. 93–579; 44 stat. 1896, *et seq.*). Included in these rules is a proposal to exempt two of the agency's systems of records from certain provisions of the Privacy Act under the provisions of 5 U.S.C. 552a(j)(2). These systems are identified as CIS–04, entitled: "Case Control System" and CIS–06, entitled: "Investigative Files." The notices for these two are set forth below. In addition the Defense Criminal Investigative Service proposed to establish four non-exempt systems as well.

New systems reports as required by 5 U.S.C. 552a(o) were submitted for these six systems as indicated.

System ID and date of report

CIS–01, June 2, 1982
CIS–02, June 2, 1982
CIS–03, June 2, 1982
CIS–04, June 3, 1982
CIS–05, June 2, 1982
CIS–06, June 8, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

CIS–01

SYSTEM NAME:

Privacy and Freedom of Information Act Requests

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Individuals who have submitted requests under 5 USC or 5 USC 552a.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of all correspondence with requesters or pertaining to requests for information released or withheld; summaries, and logs of actions taken regarding requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also 5 U.S.C. 552, the Freedom of Information Act and 5 U.S.C. 552a the Privacy Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

These records are maintained to permit responses to individual requests; to document actions taken for agency use in processing subsequent requests, appeals, or litigation; to provide a basis for reports required by the statutes and their implementing directives; and to correct and amend investigative or other records.

Records are used by DCIS personnel and action officers of other agencies when coordination or referral is necessary for the purposes listed above. DCIS case controllers may have access when release of information may have an impact on investigative activities, or where investigative activities is necessary to verify assertions of the requestor or to obtain permission for release of identified sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in file folders, retrieved by the name of the subject of the request, and are maintained in security containers accessible only to personnel who have a need to know in the course of their official duties. A log entry is made and a file folder established upon receipt of each request. Copies of key documents or summaries are retained for as long as released material is retained. Records are destroyed as classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Requests should be addressed to the System Manager. The full data involving any earlier request should be included. DCIS may be visited at Cameron Station between 9 am and 3 pm, Monday through Friday. A check of personal identification will be required of all visitors making inquiry for personal records.

RECORD ACCESS PROCEDURES:

Access may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from requestors, from other federal agencies with collateral interest in the request, and from records which were the subject of requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS–02

SYSTEM NAME:

Applicant Records.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions with the DCIS who have submitted paperwork directly to DCIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary record of applicants' stated interest in and qualifications for employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also the Federal Personnel Manual, Chapters 332 and 333.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Records are used to identify applicants and determine their eligibility for positions with DCIS. Information and records may be disclosed to other agencies for verification. DCIS supervisors with an established need for information an accredited investigators use in the information in the applicant process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in files or looseleaf binders and are filed alphabetically by last name of the applicant. Records are maintained in files accessible only to authorized personnel with clear need to know in the course of their official duties. The binding is locked after duty hours and has security guards. Records are temporary and are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Manager Systems, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the System Manager. Written requests should contain the full name of the individual, the current address and telephone number. Visits are limited to the hours of 9 am and 3 pm during business days. Personal visits to Cameron Station office will require identification by some form of photographic identification.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-03

SYSTEM NAME:

Personnel Locator Cards.

SYSTEM LOCATION:

Defense Criminal Investigation Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned or attached to DCIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards reflecting names and locations of DCIS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1974, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to maintain a locator system of all personnel assigned to DCIS. Used by administrative personnel and supervisors in the HQ DCIS and field units to determine current assignment of DCIS personnel, to aid in distributing communications addressed to individuals; and to make and verify entries in required personnel rosters, directories, and listings subject to certain restrictions placed on the information by the individuals concerned.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Stored in paper form. Filed alphabetically by last name. Records are stored in security containers or locked file cabinets, accessible only to authorized personnel with a need to know the information in the course of their official duties. Retained in the active file until departure of the individual, when they are placed in the inactive file and destroyed after one year.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Access to this system may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting and appealing determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The individual on whom the records pertain.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-04

SYSTEM NAME:

Case Control System.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person or activity the subject of an ongoing or recently completed DCIS investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file is composed of records of investigations which are being or have been conducted by DCIS. Records contain the name or other personal identifying information on the investigated individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file contains open and closed case listings used in case management, to produce statistical reports, and to control local aspects of the investigation.

Users are the DCIS case control officers, the Director, DCIS, and the DCIS Associate Director of Management Systems.

Used to determine the existence, location, and status of cases, to control workload and prepare statistical reports, and to inform federal agencies or requesters of investigations regarding the status of on-going investigations.

This system maintained by DCIS is part of the Defense Investigative Service system, identified as V5–04, "Defense Case Control System (DCCS)."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Files are retained in paper form and are accessed through the case control number, military service number, Social Security Number, or by the name of the individual concerned.

Files maintained in locked cabinets accessible only to those with a need to know in the course of official duties. Records are retained for one year after case is closed and are disposed as classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager. Requester should provide the full name of the subject company or individual, and all maiden or alias names under which the file may be maintained. Personal identifiers which should be included are date and place of birth, Social Security Number, and the last four digits any former military service numbers.

The office at Cameron Station may be visited from 9 am to 3 pm, during normal workdays. Requesters should bring documentary proof of identity which contain photographs.

RECORD ACCESS PROCEDURES:

Contact the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are available from the System Manager.

RECORD SOURCE CATEGORIES:

DCIS Case Control Centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with subsection (j)(2) of the Act, certain information contained in this system of case control records may be exempted from the provisions of subsections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G–H–1), (e)(5), (e)(8), (f), and (g). This exemption will allow DCIS to conduct effective investigations into alleged unlawful activity or crime conducive situations. (See DCIS Regulation 5400.11).

CIS–05

SYSTEM NAME:

Security Records.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current DCIS employees and former employees who have terminated in the past 12 months.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's certificate of security clearance, security briefing statement, SCI access records, certificates of clearance from other agencies, Defense Central Index of Investigations check results, summaries of advance information, debriefing statements, and similar related documents varying in certain cases. Sufficient individual identifying data to confirm identities is also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also "DoD Directive 5200.1, "Department of Defense Information Security Program."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are used to provide a basis for granting security clearance and access to provide information as to degree of security clearances for individuals attending official activities of other offices concerning classified matters, and to provide security clearance information to other governmental offices where change of employment is being considered.

In the event that records maintained in this system indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant Records in the system may be referred as a routine use to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, or other benefit.

Users include the Director, DCIS; the DCIS Security Officer, all supervisors but only for confirming clearance information; and security officials of other DoD elements or governmental agencies when required for clearance verification or preemployment consideration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Individual files are established when first assigned to the DCIS. Clearance certificates are filed when received. Storage is by paper in file folders, which are filed alphabetically by last name. Records are maintained in locked containers in areas accessible only to authorized personnel who have a need to know in the connection with their official duties. Records are maintained for the period of time an individual is assigned to DCIS and for one year afterwards. Disposal is as classified waste.

SYSTEMS MANAGER(S) AND ADDRESS:

Security Officer, DCIS, P.O. Box 9290. Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Access to records may be obtained at any time. Requests should be addressed to Defense Criminal Investigative

Service, P.O. Box 9290, Alexandria, VA 22304. Written requests for information should contain the full name of the individual, current address and telephone number. Visits to the Cameron Station office are limited to the hours of 9 am to 3 pm, on duty days. For personal visits, a check of personal identification documents will be conducted.

CONTESTING RECORD PROCEDURES:

The DCIS rules for contesting record contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Application and related forms are from the individual concerned. Summaries of information come from the background investigations of the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-06

SYSTEM NAME:

Investigative Files.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), a component of the Assistant to the Secretary of Defense (Review and Oversight) (ATSD(R&O)), Cameron Station, Alexandria, VA 22314, has primary control over the system.

Regional field offices, resident agencies, and various DCIS headquarters staff elements originate and have temporary control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; members of the Armed Forces of the United States, reserve components, and National Guard units; DoD contractors; individuals residing on, having authorized official access to, or contracting or operating any business or other functions at any DoD installation or facility; and individuals not affiliated with the Department of Defense when their activities have directly threatened the functions, property or personnel of the Department of Defense, or they have threatened any other high ranking government personnel who are provided protective service mandated by the Secretary of Defense, or they have engaged in, or are alleged to engage in criminal acts on DoD installations or directed at the DoD, its personnel or property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) including any attachments, prepared by DCIS or other DoD federal, state, or local official investigative activities;

DCIS Information Summary Reports (ISRs) which record unsolicited information of criminal nature received by DCIS concerning a person or incident which is of direct interest to other DoD Components or federal agencies;

Case control documents which are not included in the ROIs but which serve as the basis of investigation or which guide and facilitate investigative activities, including documents providing the data to open, direct, conduct, transfer and close cases;

DCIS file administration and management documents accounting for disclosure, control, and access to a file; and

Grand Jury information not contained in case files, agent notes, fingerprint cards, duplicate files at the local level and other miscellaneous documents supporting the criminal investigation file to include court documents and on occasion reports of administrative proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service (DCIS) as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Criminal investigative information is collected at the request of appropriate DoD officials or agencies to identify offenders, to provide facts and evidence upon which to base prosecution, to effect corrective administrative action and to recover money and property which has been wrongfully appropriated. Information contained in ISRs is disseminated to interested DoD Components and other federal agencies. Criminal information is collected during reciprocal investigations conducted for other DoD and federal investigative elements (or in limited instances, for local or state law enforcement agencies) for maintenance and use by the requesting activity.

Users of DCIS criminal investigative information include: DCIS personnel in the course of their official duties; other accredited DoD investigative components, DoD agencies, elements of the military departments designated by the departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff; accredited federal criminal and civil law enforcement agencies; other accredited federal agencies conducting investigations to evaluate suitability for employment or access to classified information; congressional committees; and the Government Accounting Office.

DCIS investigative records are used: in criminal law enforcement investigations including statutory violations; counterintelligence, as well as counterespionage and counterterrorist activities and other security matters; to assist the appropriate agency charged with the responsibility for investigating or prosecuting violations of laws, rules, regulations or orders; to provide information in judicial or adjudicative proceedings including litigation or in accordance with a court order; to make statistical evaluations of DCIS investigative activities; to respond to Freedom of Information Act access requests; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities, for entry into, retention in and for personnel actions in the Armed Forces, and for federal agencies in connection with hiring, retention, issuance of security clearance, or of other benefit by the requesting agency; to provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056; to provide information in response to Inspector General, Equal Employment, or other complaint investigations and congressional inquiries; to obtain relevant information from federal, state, local or foreign agencies to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in file folders, on microfilm, and supplementary index cards. Investigations are centrally retrievable through the Defense Investigative Service (DIS) Case Control System (DCCS), V5-04, or the Defense Central Index of Investigations (DCII), V5-02, record systems managed by DIS. All DCIS records are maintained and stored at Cameron Station, Alexandria,

VA. They are maintained and stored in locked safes and are accessible only to authorized personnel who have a need to know in conjunction with their official duties. Recipients of investigative information are responsible for safeguarding the information while temporarily in their custody in accordance with guidelines provided by DCIS.

RETENTION AND DISPOSAL:

Retention of closed DCIS criminal investigative files is authorized for 25 years, except they may be offered to the National Archives after 15 years. Fraud Prevention surveys are maintained for 10 years. Generally, ISRs are retained only 60 days. Partial duplicate records are retained for one year. All files are destroyed as if they contain classified information.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Investigative Operations, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Requests should be addressed to the system manager. The full name, date, and place of birth and social security number of the subject individual, and any pertinent data concerning the topic of the criminal investigation are necessary for retrieval of information. The requester's signature should be notarized. More information may be required.

RECORDS ACCESS PROCEDURES:

Access by mail may be obtained through the System Manager. Visitors may obtain access during the hours from 9 am to 3 pm at Building 8, Room D490, Cameron Station, Alexandria, VA. Visitors should be prepared to identify themselves with some identification media containing a recent photograph.

CONTESTING ACCESS PROCEDURES:

DCIS rules for contesting and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Subjects and suspects of DCIS investigations.

Interview of witnesses, victims, and confidential sources.

All types of records and information maintained by all levels of government, private industry, and non-profit organizations.

Any other type of record deemed necessary to complete the DCIS criminal investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The parts of system of records which falls within the scope of 5 U.S.C. 552a(j)(2), are exempt from certain provisions of sections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of Title 5 of the United States Cde. (See DCIS Regulation 5400.11).

[FR Doc. 82-19152 Filed 7-14-82; 8:45 am]
BILLING CODE 3810-01-M

Department of the Navy

Notice of Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DoN) announces the appointment of members to the DoN's numerous Senior Executive Service (SES) Performance Review Boards. The purpose of the Boards is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisors; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; and to make nominations for financial performance awards. Composition of particular Boards will be determined on an ad hoc basis from among those individuals listed below.

Department of the Navy—Performance Review Board Membership

Mr. H. Andrews
Dr. J. E. Andrews
Mr. E. P. Angrist
Mr. O. R. Ashe
Mr. J. M. Bachkosky
Mr. D. C. Bailey
RADM J. A. Baldwin, Jr., USN
Dr. D. F. Barbe
RADM E. Barrineau, USN
Mr. A. V. Bernard
Dr. A. E. Beutel
RADM R. G. Bird, USN
Mr. J. A. Bizup
Dr. H. L. Blood
Mr. M. T. Brodsky
Mr. R. S. Buffum
Mr. F. J. Burchfield
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Mr. G. A. Cann
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Mr. R. J. Cauley
Mr. E. T. Kinney
Mr. W. T. Sansone

FOR ADDITIONAL INFORMATION CONTACT: Mr. Vincent J. Prantl, Executive Personnel Section (OP-142D), Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, Telephone No. (202) 694-5760.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-19051 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Near-Term Resource Policy; Request for Public Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Near-Term Resource Policy: Request for Public Comments.

SUMMARY: BPA is developing a policy which will serve as a guide for resource decisions to be made in the immediate future. These decisions will include conservation programs, the development of the small renewable resource acquisition program, development of financial assistance programs, and other resource development and acquisition decisions. The proposed policy was formulated following extensive analyses of the current and projected power loads and the resources available to meet them. The context for considering this policy includes the forecasted near-term (through the late 1980's) surpluses of firm power, deficits in later years, and uncertainty regarding future loads and resources. The detailed supporting analyses are available from the Public Involvement Coordinator.

DATES: Written comments on the proposed policy must be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, on or before August 16, 1982. Additionally, interested persons are invited to provide oral comments at a public comment forum on July 28, 1982, at 7:30 p.m., in the BPA Auditorium, 1002 NE. Holladay, Portland, Oregon. Registration begins at 7 p.m.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-230-3478. Oregon callers may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION:

I. Introduction

This presents the near-term resource policy which will guide the Bonneville Power Administration (BPA) for the immediate future regarding conservation programs, the development of the small renewable resource acquisition program, development of financial assistance programs, and other resource development and acquisition decisions. A number of decisions have already been made based on analyses similar to those used in developing this proposed policy. These decisions have included consideration of the level of conservation activity to be undertaken in FY 1983 and FY 1984, amounts to be budgeted for conservation in FY 1984, and amounts to be included for research, development, and demonstration and preconstruction assistance funding in BPA's 1982 rate case.

Future resource decisions will include consideration of the policy and objectives outlined in this document. Ultimately, decisions will be made weighing these and other factors and reflecting BPA's judgment consistent with its responsibility to provide electric power to the region on a prudent and businesslike basis.

The near-term resource policy is dynamic and will be modified as better information becomes available. BPA wants interested parties to help refine the policy which BPA will use in planning near-term resource activities, and is consulting with regional officials, leaders in the field of electric power generation and management,

conservation and renewable energy experts, and concerned individuals. The Northwest Regional Power Planning Council's (Regional Council's) regional plan, due to be completed in April 1983, should contain substantial additional information and will provide guidance in developing comprehensive long-term policies.

The policy was formulated following analyses of the current and projected power loads and the resources available to meet them. The context for this policy includes the forecasted near-term (through the late 1980's) surpluses of firm power, deficits in later years, and uncertainty regarding future loads and resources. The analyses were performed in real terms, i.e., the effects of general price inflation have been removed. Thus, actual (nominal) costs may exceed the levelized constant dollar figures in the early years.

Following is a statement of BPA's near-term resource policy, including specific principles related to conservation and other resources. A discussion of the information and analyses upon which the policy is based follows in section IV.

II. Near-Term Resource Policy

This section presents the general policy which will guide BPA's resource acquisition activities in the near-term, including provisions specific to conservation and generating resources. In addition to the general policy is a discussion of BPA's intent in certain program areas.

A. General Resource Policy

In general, BPA will focus its resource acquisition efforts at this time on cost-effective resources that will minimize the BPA cash flow requirements in excess of the incremental revenue which BPA receives from surplus power sales and that will minimize adverse environmental impacts. To be considered for acquisition, a resource which begins to produce power or savings before 1985 must have the following characteristics:

1. (a) A levelized monetary cost of approximately 35 mills/kWh in constant 1982 dollars, including transmission, waste disposal, and end-of-cycle costs (conservation will be given a 10 percent cost advantage); and

(b) The bulk of its power or savings produced in the forecasted deficit periods; and

(c) Several years required to realize full resource potential; or

2. A delay or loss to the region on a long-term basis would result in an increased total system cost associated with the resources used to meet forecasted loads.

The above conditions apply to all acquisition activity. The analysis suggests additional policy elements for the following specific areas.

3. *Conservation.* (a) Existing conservation programs will continue at current levels with new programs initiated consistent with the General Resource Policy.

(b) Programs and projects will be developed to test delivery and financing options so as to have mechanisms in place for delivering targeted conservation by the late 1980's.

4. *Generating Resources.* BPA may acquire resources in the near-term under one of the following arrangements:

(a) An acquisition under which BPA takes delivery of power beginning in the late 1980's or later.

(b) A long-term acquisition under which delivery of power would begin in the early to mid-1980's where nominal cost, during the surplus period, is not substantially in excess of incremental revenues which could be recovered from surplus power sales.

(c) Purchase of an option to acquire a resource, to be exercised when needed to serve BPA loads, at a contractually established price.

B. Program Areas

1. *Small Renewable Resources Program.* The potential power supply represented by small renewable resources will be realized through the actions of many individual project sponsors. To evaluate all of the potential projects efficiently, BPA will formulate a single program to facilitate acquisition of these resources. It is likely that a period of several years will be required to realize targeted levels of output. Therefore, BPA will:

(a) Formulate program specifics during fiscal year 1983; and

(b) Prior to a full-scale program, seek a limited number of acquisitions, consistent with the General Resource Policy, to test program procedures for compliance with the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) and the National Environmental Policy Act, and to develop the contractual procedures necessary for later general application.

2. *Preconstruction Funding Guarantee Program.* The preconstruction assistance program will be formulated in FY 1983 and FY 1984 with initial levels of activity sufficient to test program procedures consistent with the requirements of the Regional Act. Such a program would enable eligible sponsors to perform preconstruction studies for resources which would not otherwise have had the opportunity to be developed. This is consistent with the Regional Council's desire to develop options for future resource acquisitions.

3. *Investigation and Assessment of Resources.* Experimental, developmental, demonstration, or pilot projects of a type which have potential for providing cost-effective service to the region will be targeted for funding. Resource assessment activities will continue to develop and update information on costs, availability, reliability, and environmental effects of various resource types. This would include both conventional generating and conservation resources and resource types not commercially available or which have not penetrated the commercial market. BPA will conduct demonstration projects to determine the cost-effectiveness of conservation measures and direct-application renewable energy resources.

4. *Billing Credits.* Emphasis will be placed on developing this program to support activities that are consistent with the General Resource Policy. However, BPA's billing credits policy is being developed in a separate process that will guide the granting of individual billing credits.

III. Policy Objectives Statement

The near-term resource policy objectives are:

1. To acquire sufficient cost-effective resources to meet the Administrator's obligations;

2. To acquire resources in accordance with the priority scheme as established in the Regional Act;

3. To promote a climate which will encourage the availability of high priority resources;

4. To emphasize resources which are compatible with the regional electric power system;

5. To emphasize resources which have acceptable environmental impacts, and which are consistent with BPA's obligation to consider the protection, mitigation, and enhancement of fish and wildlife;

6. To take actions which preserve the Regional Council's options when developing the regional plan;

7. To increase the flexibility and diversity of the region's electric power system in order to accommodate changing load and resource conditions;

8. To provide the opportunity for an orderly development of policy, program, and staff to prepare BPA and the region for future resource decisions;

9. To maintain the fiscal integrity of BPA and the region as a whole; and

10. To bring greater stability and predictability to BPA's rate structure and resource decisions.

IV. Basis for Near-Term Resource Policy

To develop a near-term resource policy, BPA considered factors which affect the potential cost-effectiveness of resources. Since no single analytical tool or measure of cost currently available can capture the full range of considerations necessary to make an informed decision regarding the cost-effectiveness of a resource, BPA used a levelized energy cost calculation and a least-cost resource mix analysis. This analysis is a quantitative estimation of new resources that can meet the region's needs at the least total system cost over the planning period.

Other more qualitative factors considered include the priority scheme in Section 4(e)(1) of the Regional Act, nonpriceable environmental costs and benefits, and the objective of providing flexibility in the development of new resources as one means of dealing with uncertainty.

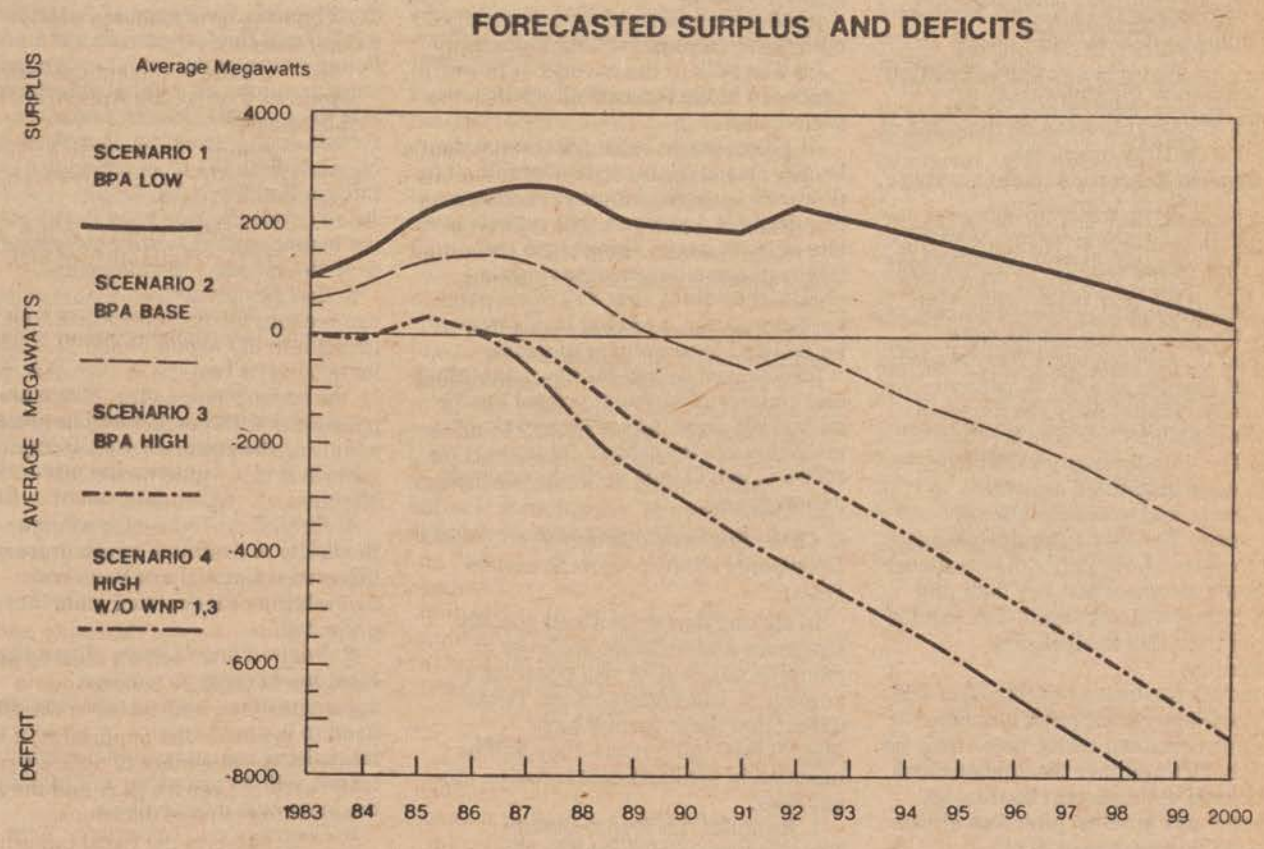
A. Analysis of Least-Cost Resource Mix

1. *Future Demand for Power.* The appropriateness of any near-term resource decision depends, in large part, on the rate at which the demand for power grows in the future. In recognition of the uncertainty surrounding load forecasting, BPA considered a range of future growth rates in developing this resource policy. The three forecasts considered were BPA's low, base, and high forecasts with growth rates of 0.8 percent, 1.7 percent, and 2.5 percent respectively for the period 1982 to 2000.

2. *Surpluses and Deficits Without New Resources.* Potential future surpluses and deficits of firm power were predicted by subtracting the output of resources which are existing, under construction, or otherwise committed in the region, from the forecasted demand for power. Existing and committed resources include the hydroelectric power system; existing thermal power plants; ongoing conservation programs to which BPA is committed; and existing contracts with utilities outside of this region. Resources which are not already under construction or committed to were not included in estimates of potential surpluses and deficits.

Potential surpluses and deficits are a measure of the timing and magnitude of the need for new resources. Figure 1 shows the projected surpluses and deficits using the scenarios of BPA's low, base and high load forecasts. A worst-case scenario was also considered, using the high load forecast and assuming that the Washington Public Power Supply System nuclear plants No. 1 and No. 3 are not completed. As Figure 1 shows, these load/resource scenarios give a wide range of potential surpluses and deficits. If the BPA base forecast is realized and no new resources are added, firm energy deficits would begin in 1989–90, and would increase to nearly 4000 average megawatts by the year 2000. Under the worst-case scenario, significant deficits would begin in 1986–87, and increase to over 9000 average megawatts by the year 2000. Under the low growth forecast, no firm deficits would be expected through the year 2000. These potential power surpluses and deficits form the basic context for BPA's near-term resource decisions.

Figure I



3. *Evaluation of Resource Mixes.* A wide variety of potential resources was forecasted to be available to BPA and the region to meet future loads. The first step in the resource mix analysis was to compile information on the costs, amount available, and other characteristics of these resources, including new conservation programs. Next, the expected value of additional energy during the forecasted period of surplus was estimated based on the export sales value and the value of displacing the operation of high cost resources in the region. This information was then used to formulate and evaluate a large number of possible mixes of resources under each of the load/resource scenarios described above.

Sufficient resources, including new conservation, were included in each resource mix to meet forecasted average annual firm energy and January peak demand over a 20-year time frame. The resource mixes have different levels of emphasis on new conservation, renewable, and conventional thermal resources. The costs of each resource mix were estimated for each year of the 20-year study period, and the costs were discounted back to a present value. This present value of resource costs was the standard for economic comparison of alternative resources mixes.

Factors included in formulating potential resource mixes and estimating their costs and reliability were the impacts of new resources on the costs of operating existing resources, hydrosystem generation under varying water conditions, impacts on transmission and distribution systems, and the integration of new resources on a seasonal and hourly basis. The costs of transmission and distribution, fuel costs, and end-of-cycle costs were included in resource costs. Transmission line loss savings and the 10 percent advantage mandated by the Regional Act were included for conservation costs. The data for many variables which were quantified are still preliminary and entail significant uncertainty. Sensitivity analysis was used to assess how stable the least-cost mix analysis was when key data and assumptions were changed. The results derived from this analysis are preliminary.

Although the best available data and analytical tools were used, a number of variables remained which could only be partially factored into the analysis and which have an important bearing on least-cost mix studies. Intensive efforts at developing improved data on potential resources and improved power system modeling capability are now being conducted by BPA, the Regional Council, the region's utilities, and other groups in the region. These efforts are expected to yield a much improved capability to formulate and evaluate resource mixes in the near future. BPA intends to use this improved evaluation capability, as it becomes available, to analyze future resource decisions.

4. *Conclusions from the Least-Cost Resource Mix Analysis.* Three general conclusions emerged from the analysis of least-cost resource mixes.

(a) Given the assumptions on which the analysis was based, new generating resources do not need to be brought on-line to meet load growth until around 1987 under Scenario 3 and 4, until around 1993 under Scenario 2 (BPA Base Forecast), or until after the year 2000 under Scenario 1 (see Figure 1). This conclusion does not necessarily apply to resources that are already under construction, however, because the incremental costs of deferring project completion dates were not factored into the analysis.

(b) Acquiring resources in the near-term can reduce the present value of total system costs if the savings or power generation has the following characteristics:

(i) Levelized costs of approximately 35 mills/kWh in constant 1982 dollars;

(ii) The bulk of the savings or power is produced in the forecasted deficit period; and

(iii) Ramping in to targeted resource levels. This is characteristic of the power or savings of most resources acquired via a program rather than on a site-specific basis. This means that although some power or savings is obtained from the first day of program implementation, targeted levels may not be realized for a number of years.

(c) The cost ceiling for new generation and conservation will rise from the 35-mills/kWh level in real terms as new resources are brought on later in the 1980's to meet loads in the forecasted deficit period.

B. Other Factors Considered in Developing the Near-term Resource Policy

In making decisions about specific resources and in future analyses of resource mixes, BPA will consider a number of additional factors. To the extent that these factors have identifiable dollar costs, they will be included in the least-cost resource mix analysis.

1. *Regional Act Requirements.* Requirements established by the Regional Act are a critical element of any resource development decision. Included among these are:

(a) The resource priorities established by Section 4.(e)(1);

(b) The responsibilities mandated by Section 4.(e)(2) item (C) to protect, mitigate, and enhance fish and wildlife and authority under Section 6.(a)(2)(b) to acquire resources for the fish and wildlife purposes;

(c) The special emphasis given by Section 6.(b)(5) to acquire conservation and renewable resources installed by residential or small commercial consumers to reduce load;

(d) Resources that are compatible with the existing regional electric power system as directed in Section 4.(e)(2) item (B); and

(e) Other criteria which may be set forth in the regional plan.

2. *Environmental Issues.* Individual resources must be assessed to determine their particular effect on environmental quality and, hence, whether the resource is suitable to meet the Administrator's obligations. To the extent that these effects can be priced, they will be included in the least-cost mix analysis. Additional effects which can be expressed in numbers (quantified) but not in dollars (priced) will also be taken into account before a final resource cost-effectiveness decision is made. Furthermore, the Regional Act in Section 4.(e)(2) and the National Environmental Policy Act require that environmental considerations be explicitly factored into the overall resource decisions. Action on any resource, therefore, must be made with the most complete information available to the Administrator concerning the effect on the human and physical environment from the resource development.

3. *Lost Opportunities.* If a resource can reasonably be delayed without losing it to the region or significantly increasing its real costs, then this may be the appropriate action. If this is not possible, consideration will be given to acquiring the resource during surplus periods if this would prove cost-effective.

4. *Flexibility.* Increasing system flexibility is desirable to minimize costs incurred when realized resource availability or loads vary from those projected.

5. *Isolated Load Center Advantages.* Most load center production considerations, such as delaying the need to upgrade service to an area or minimizing transmission/distribution losses, will be priceable and included in the least-cost mix analysis.

6. *Diversity and Continuity.* Two factors which also are considered important in the development of

resources are developing a system which is not overly dependent on any one resource type, and maintaining continuity in resource development programs to assure power will be available when needed.

Issued in Portland, Oregon, July 8, 1982.

Edward Sienkiewicz,

Acting Administrator.

[FR Doc. 82-19176 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

U-Tex Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to U-Tex Oil Company (U-Tex) of Murray, Utah. This Proposed Remedial Order charges U-Tex with pricing violations in the amount of $502,833.21 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period October 1, 1975 through April 30, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvina Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 16th day of June 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit and Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-19251 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration Presurvey Consultation Program

AGENCY: Energy Information Administration, DOE.

ACTION: Republication of Request for Comments on Proposed Revision to the Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23.

SUMMARY: This is a reissuance of a previous **Federal Register** Notice published July 8, 1982, in 47 FR 29701. The proposed revised Form and Instructions had been inadvertently omitted from the earlier Notice and are included in this reissued request for comment.

At this time, the EIA requests comments on the revised Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23. It is described in the Supplementary Information section of this Notice. Interested parties are asked to review the Form and its instructions and provide comments to the information contact described below.

EFFECTIVE: 30-day comment period begins with the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ted L. Madison, Reserves and Production Branch; Energy Information Administration, Federal Building, Mail Stop 4430; 12th Street and Pennsylvania Avenue, N.W.; Washington, D.C. 20461 (202) 633-9696.

SUPPLEMENTARY INFORMATION: The EIA has the responsibility to develop credible and verifiable estimates of crude oil, natural gas, and natural gas liquids reserves and production. For survey years 1977 through 1981 these data were obtained from selected oil and gas well operators by utilizing the Form EIA-23.

Revisions are now proposed for the Form EIA-23 prior to collection of data for survey year 1982. These revisions reflect an effort to reduce the reporting burden of EIA-23 respondents through the elimination of redundant schedules and the utilization of a more space-efficient form format. The proposed changes would affect only Category I and Category II (large and intermediate sized) oil and gas well operators who file EIA-23. The version of the Form utilized by Category III (small) operators is already designed for minimum reporting burden and is not proposed to be revised. Therefore, Category III operators would be unaffected by these changes. No new data elements are proposed in this revision, although the relocation of some data elements may make them appear to be new. The gas commitment status data remains as collected in past surveys and would be reported on the proposed Schedule B.

Notable proposed changes are as follows:

- The Part 1 (Summary) schedules would be eliminated for Category I and II operators.
- Schedule 1 would be eliminated. However, natural gas commitment status data would still be collected on a separate schedule.
- Rather than using two different schedules, Category I and II operators would utilize a common schedule to report reserves and production on a field-level basis. Schedule 2 would be eliminated, with Schedule 3 modified for use by Category I *and* Category II operators.
- Reserves data for four fields would be entered on one revised Schedule 3, rather than a single field per schedule as is now the case.

Printed below is a draft revised Form EIA-23 with instructions, along with a suggested format for providing comments. This format specifies areas of particular interest to the DOE and also provides opportunity for reviewers to comment on issues of concern to them. The use of this format is not required, but it will facilitate DOE's ability to address comments in a timely manner. Please review the revised Form and send your comments within 30 days of this notice to the above address.

Issued in Washington, D.C., July 9, 1982.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

BILLING CODE 6450-01-M

U.S. Department of Energy

Energy Information Administration
Office of Oil and Gas

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
FORM EIA-23

REPORT YEAR 1982

Category I and II Operator Package

TABLE OF CONTENTS

General Information 2

A. Purpose 2
B. Who Must Submit Form EIA-23 2
C. What Must Be Submitted 3
D. When and Where to Submit 3
E. Recordkeeping Requirements 3
F. Sanctions 3
G. Confidentiality 4

General Instructions 4

H. Reporting Standards 4
1. Operated and Ownership Reporting Bases 4
2. States and Geographic Subdivisions 5
3. Proved Reserves 5
4. Report Year Production 5
5. Crude Oil 5
6. Natural Gas 5
7. Lease Condensate 5
8. Schedule Preparation Standards 5
a. Negative and Positive Volumes 5
b. Rounding 6
c. Collation of Filing 6
d. Reproduction 6
e. Character Set 6

Specific Instructions 6
I. Operator Identification and Detailed Report 6
1. Cover Page/Attestation 7
2. Schedule A — "Operated Proved Reserves, Production and Related Data by Field" 7
3. Schedule B — "Commitment Status of Proved Natural Gas Reserves, by State and Subdivision" 10
4. Schedule C — "Footnotes" 11

Glossary and Codes 13

J. Definitions 14
K. Location Codes and Maps 19
L. Field Naming Conventions 25

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FOR INFORMATION OR ASSISTANCE, CONTACT THE
EIA-23 COORDINATOR AT (405) 360-1971.

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EIA-23 (5-82)

A. PURPOSE

The Energy Information Administration (EIA) of the Department of Energy (DOE) seeks, with Form EIA-23, to gather and summarize credible and timely data regarding proved reserves and production of crude oil, natural gas, lease condensate and other related matters. Reporting of the data requested on Form EIA-23 is mandatory pursuant to the Federal Energy Administration Act of 1974 (FEAA, Public Law 93-275) and the Department of Energy Organization Act of 1977 (DOEOA, Public Law 95-91). Among other things, DOE will use the resulting information to develop national and regional estimates of proved reserves of domestic crude oil, natural gas, and natural gas liquids, and to facilitate national energy policy decisions.

This survey segregates operators into three categories, according to the annual production of hydrocarbons from wells which they operated on December 31 of the report year. *Proved reserve estimates are required from the Category II and III operators only if such data exist in company records.* The Category I operators must provide proved reserves estimates.

EIA will follow this survey with efforts to validate the data, assessing the meaningfulness and accuracy of the resulting information. Respondents may encounter two principal activities included in this validation:

- Government personnel will make or supervise independent reserve estimates on a sample basis, and
- a sample of operators will be visited to confirm the data submitted.

EIA recognizes that the judgment of geologists and petroleum engineers is required in the reserve estimation process, and that as a result, proved reserves are estimates rather than precise quantitative measurements.

B. WHO MUST SUBMIT FORM EIA-23

Each operator of domestic oil and/or gas wells as of December 31 of the report year has filing requirements as described in Section C below. (See following box for the definition of an operator as used in these instructions and forms.) The terms "the report year" or "current report year" in these instructions and the Form refer to the period January 1, 1982 thru December 31, 1982, inclusively. The term "prior report year" refers to the period January 1, 1981 thru December 31, 1981, inclusively.

If you were not an operator then (perhaps a former operator or solely a working or royalty interest owner), you should submit only the Cover Page which immediately follows the Glossary, so that EIA can remove your name from its active operator identification list.

Note that each operating affiliate (whose production places it in Category I or II as described in Section C) of a parent company must file its own Form EIA-23. The parent company must file only if it is an operator itself. If you have an affiliate or parent who should have received this form instead of or in addition to you, notify EIA by contacting the EIA-23 Coordinator at (405) 360-1971.

An OPERATOR is:

> The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells on December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil, natural gas, and/or lease condensate in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" on December 31.
>
> Note that as defined above, day-to-day *physical* operation of a well or wells does not alone qualify a person as the operator. Physical operation may occasionally be divorced from operatorship, such as in the instance of manipulation of swing wells by a gas pipeline company representative, or the manipulation and maintenance of wells located on an offshore platform by the platform manager. While the operator's own personnel usually perform such duties, the key factor is that the operator is the person who makes management decisions regarding the well(s) in question on behalf of the owner(s). Such decisions might include, for example, deciding what flow rates can be sustained without reservoir damage; deciding whether well(s) should be shut-in, worked over, or abandoned; whether additional or replacement wells should be drilled into a reservoir; whether a waterflood program should be initiated; or whether additional or different production equipment should be installed. If in a particular instance you are not certain whether you are the operator, contact the EIA-23 Coordinator at (405) 360-1971 for assistance in making this determination.

GENERAL INFORMATION (Continued)

C. WHAT MUST BE SUBMITTED

Filing requirements are based on operator category. Your operator category is determined from the following table. Production refers to the total report year production from all domestic oil and/or gas wells you operated on December 31 of the report year, including wells abandoned during the year.

Your Operator Category is.....:	Category I	Category II
If your report year production of either crude oil or natural gas equals or exceeds:	1,500 MBbls of oil or 15,000 MMcf of gas	400 MBbls of oil or 2,000 MMcf of gas (and BOTH were less than Category I levels)
If your operated production is less than both of the Category II lower limits, you are a Category III operator and need only submit a brief summary report. Contact the EIA-23 Coordinator at (405) 360-1971 to obtain the necessary summary form and instructions.		

Category I and Category II operators are both required to submit one completed set of:

Cover Page/Attestation
Schedule(s) A — "Operated Proved Reserves, Production, and Related Data by Field"
Schedule(s) B — "Commitment Status of Proved Natural Gas Reserves, by State and Subdivision" (if needed)
Schedule(s) C — "Footnotes" (if needed)

NOTE

Category II (and Category III) operators are required to report proved reserves data only for those properties for which estimates exist in company records. To the extent that Category II (and Category III) operators do not have proved reserve estimates associated with one or more specific properties, they must separate their production data according to production from properties for which proved reserves have been estimated, and production from properties for which proved reserves have not been estimated. (See Part I of the Specific Instructions for more information on filing requirements.)

D. WHEN AND WHERE TO SUBMIT

The completed survey must be submitted on or before April 30, 1983, for report year 1982.

Completed forms should be submitted to:

U.S. Department of Energy
Box OK
Norman, OK 73070

For information concerning requests for extension of time to file Form EIA-23, contact the EIA-23 Extension Coordinator at the above address or call (405) 360-1971.

E. RECORDKEEPING REQUIREMENTS

All records necessary to reconstruct the data reported on this form must be kept for a period of three (3) years from the filing due date at the reporting site.

F. SANCTIONS

Failure to make information requested on Form EIA-23 available to the Secretary of Energy or failure to allow the DOE to verify the accuracy of the information submitted shall be subject to penalties as provided in Section 13 (i), of the Federal Energy Administration Act of 1974 (FEAA, P.L. 93-275) as amended.

G. CONFIDENTIALITY

In accordance with Section 14 of the FEAA, in responding to specific requests received from members of the public, data collected on this form will be held confidential to the extent that they are protected by the Trade Secrets Act, 18 U.S.C. §1905, or are determined by the DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 USC Section 552(b)(4)).

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

H. REPORTING STANDARDS

1. Operated and Ownership Reporting Bases

All data on Schedule A (field-level reserves and production balances) are to be reported on an 8/8ths or Total Operated Basis. Schedule B data (gas commitment status) are required to be reported on a Gross Working Interest Ownership Basis.

When reporting on a *Total Operated Basis*, production and reserve changes data are required for the full report year, even though the operator of the wells on December 31 may not have operated those wells for the entire year. Conversely, wells operated by another company on December 31 are not to be included.

EXAMPLES:

Total Operated Basis

- Of the total 8/8ths interest, respondent's share is 50 percent and the associated royalty share is 6.25 percent. Respondent operates property. Respondent reports 100 percent of proved reserves and production.
- Of the total 8/8ths interest, respondent's share is zero but he operates the property. Respondent reports 100 percent of proved reserves and production.

When reporting on a *Gross Working Interest Ownership Basis*, the respondent reports what he owned at the end of the report year. This information is reported *whether or not* the property was operated by the respondent. Gross working interest is sometimes known also as expense interest.

Under this reporting concept, total reserves for a given property equal the sum of the reserves attributable to all the gross working interests in that property. Thus the respondent reports his company's share plus its associated share of royalty and overriding royalty interests. If the respondent's only interest in a particular property is royalty interest or overriding royalty interest, then he should not include such property in his Gross Working Interest Ownership Basis computations.

The respondent must include data in his ownership report for properties owned by affiliated companies if *both* of the following conditions are satisfied:

a. the respondent operates the subject property for his affiliate, *and*

b. the affiliate is a nonoperator or a Category III operator and therefore not required to file Schedules A, B, or C.

EXAMPLES:

Gross Working Interest Ownership Basis

- Of the total 8/8ths interest, respondent's share is 40 percent and associated royalty shares account for 14.5 percent. Respondent does not operate property. Respondent reports 54.5 percent of proved reserves and production.
- Of the total 8/8ths interest, respondent has a royalty share of 10 percent. The working and associated royalty shares of other parties total 90 percent. Respondent does not operate property. Respondent does not report data for this property. (See also definitions in the Glossary.)

It is recognized your "Reserves, End of Prior Report Year" reported on Schedule A for the current report year may differ from those reported as end of year reserves in the prior year's survey. This situation frequently occurs when:

- operated properties are acquired during the year (from a previous operator),

- operated properties are disposed of during the year (to a subsequent operator),
- there is a reclassification of gas types, and,
- a Category II operator has reserves estimates for the current survey but estimates were not available for the prior year's survey.

2. States and Geographic Subdivisions

The determination of which state or geographic subdivision within which to report proved reserves and production data is based on the location of the reservoir(s) containing the oil and/or gas. If a field overlaps two or more states or subdivisions, the proved reserves data must be subdivided into the appropriate geographic components. Offshore proved reserves data are required separately for the state and federal domains. If a field lies on or between disputed boundaries, include all data in the State Offshore area, and note this fact in a footnote on Schedule C.

3. Proved Reserves

Oil and gas reserves may be considered "proved" if they are economically producible as determined by a flow test or actual production (tested proved reserves), or by well log or core analyses only (untested proved reserves).

4. Report Year Production

Production data are required from all operators. If the actual report year production data are not available at the time the Form EIA-23 is prepared, estimate production. Note that amended schedules are not required to correct preliminary production data. Production data reported in the prior report year survey may have been subsequently revised or corrected, thereby altering the end of the prior report year's reserves estimates. The change in the end of the prior report year reserves due to this factor should be accounted for as a "revision increase" or "revision decrease" in the current survey.

5. Crude Oil

All crude oil volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel) at atmospheric pressure, corrected to 60 degrees Fahrenheit and excluding basic sediment and water.

6. Natural Gas

All natural gas volumes are to be reported in millions of cubic feet (MMcf) at 14.73 PSIA and 60 degrees Fahrenheit. It is recognized that the operator in many instances has no knowledge of the ultimate reduction of the gas stream, produced from his properties, which may result from further downstream processing. The operator is requested to report volumes of natural gas which remain after processing through lease and field separation facilities.

The EIA obtains data from gas processing plants separately. Gas volumes reported on Form EIA-23 are not to be corrected for liquids removed by these plants. If you do not know if a field facility through which your gas is processed is currently reporting data to EIA or not, contact the EIA-23 Coordinator at (405) 360-1971, to obtain a list of those plants which report.

Operators must segregate most natural gas data into associated-dissolved and nonassociated gas entries. If the classification of gas type for a given reservoir should change from one to the other for any reason, the respondent should record all data according to the latest classification of gas type.

7. Lease Condensate

All lease condensate volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel, at atmospheric pressure and 60 degrees Fahrenheit.)

8. Schedule Preparation Standards

a. *Negative and Positive Volumes*

All data are to be entered as whole number integers without plus (+) or minus (-) symbols. By definition, decreases in proved reserves are accounted for either as "Production" or "Revision Decreases," and are entered without the minus symbol.

An unusual situation may occur when a field is injected with natural gas produced from another field for pressure maintenence. The resultant increase in proved gas reserves is considered as due to "negative production". If this negative production during the year exceeds production outflow, then the net production is negative and is to be reported using a preceding minus (-) symbol.

GENERAL INSTRUCTIONS (Continued)

b. *Rounding*

When rounding liquid volumes, round 500 barrels and above up to "1" MBbl, and less than 500 barrels down to "0". For gas volumes, round 500 Mcf and above up to "1" MMcf, and less than 500 Mcf down to "0" MMcf.

EXAMPLES:

For Liquids, report:	7,500 barrels	as: 8 MBbls
	467 barrels	as: 0 MBbls
For Gases, report:	8,500,000 cubic feet	as: 9 MMcf
	10,459,000 cubic feet	as: 10 MMcf

c. *Collation of Filings*

Prior to submission, completed forms must be assembled and paginated consecutively *within each schedule* in the following order:

First Page	Cover Page
Page 1, 2, 3, etc.	Schedule(s) A by state, then subdivision within applicable states, in the same sequence as shown in the Location Code list of the Glossary. For multiple field entries, list field names alphabetically within each subdivision, or within each state not having subdivisions. The last Schedule A is to contain the National summary total for all reported fields.
Page 1, 2, 3, etc.	Schedule(s) B...(if needed) Same as Schedule A procedure.
Page 1, 2, 3, etc.	Schedule(s) C...(if needed) Ascending order of Schedule Letter, then Page Number as listed in data entry Columns (A) and (B) of Schedule C, respectively.

NOTE

Do not staple or bind your filing.

d. *Reproduction*

If mechanically reproduced forms are submitted in lieu of originals, they must have been clearly reproduced, must be of identical format and scale (within 3 percent overall dimension) to the provided forms and must have been accurately aligned during the reproduction process. Computer printouts on other than an exact duplicate of the forms provided are not acceptable.

A computer generated magnetic tape of the requested EIA-23 data will be acceptable, if it conforms to certain specifications concerning physical characteristics and data layouts. However, a hard copy of the EIA-23 filing with the proper attestation must also be provided. For information concerning tape specifications, contact the EIA-23 Coordinator at (405) 360-1971.

e. *Character Set*

Responses must be typed or printed in black ink. If you are writing the response by hand, print and use all capital letters. Long hand is unacceptable. The form was designed to be completed using a 10-pitch (Standard Pica) typewriter (identical to a standard IBM train, if you are printing your response by computer) although a 12-pitch machine can be used.

SPECIFIC INSTRUCTIONS

I. OPERATOR IDENTIFICATION AND DETAILED REPORT

Numbers in parentheses immediately following item, subitem, or column titles indicate the maximum number of spaces available for the data.

The terms "the report year" or "current report year" in these instructions and the Form refer to the period January 1, 1982 thru December 31, 1982, inclusively. The term "prior report year" refers to the period January 1, 1981 thru December 31, 1981, inclusively.

SPECIFIC INSTRUCTIONS (Continued)

1. COVER PAGE/ATTESTATION — Operator Identification

Item Instructions:

Item 1: "Were you an operator . . ." — *Check the appropriate box.*

Item 2: This item is for DOE use only.

Items 3 thru 10: Identification — Name, Address, City, State, ZIP Code, EIN Number, Name of Contact Person, Telephone Number. You are required to enter those items which are incorrect or missing from the affixed label.

Enter the legal name and address of the operator. Use standard state abbreviations found in the Glossary. If a foreign address, enter city, local equivalent of state name, (e.g., province), and country on the second address line.

(8) EIN Number — Enter the operating firm's IRS Employer Identification Number (EIN) if it has one. If the operator does not have an EIN, enter the social security number of the attestor and check the box.

(9) Name of Contact Person — This person should be familiar with the data provided, and will be the person to whom inquiries will be directed, if necessary.

Items 11 thru 17: Parent Company Identification — Name, Address, City, State, ZIP Code. Enter the legal name and address of the parent company, if any, which exercises ultimate control over the respondent. Example: You are Company A, which takes direction from Company B, which in turn takes direction from Company C. Report Company C as the parent company, rather than Company B. (17) Parent Company EIN Number — Enter the EIN number of the parent company, if any.

Item 18: Enter the total number of pages (including the Cover Page/Attestation but excluding any transmittal letters) of your filing.

Items 19 thru 22: Attestation — Enter name and title of the individual designated by the respondent company to sign the certification, and the date of the signing. This report must be sworn to or affirmed by a responsible officer or the officer responsible for regulatory filings.

2. SCHEDULE A — "Operated Proved Reserves, Production and Related Data by Field"

All proved reserves, production and reserve changes data on Schedule A are to be reported on a Total Operated Basis (See TOTAL OPERATED BASIS in the Glossary), for each field in which the respondent operated oil and/or gas wells on December 31 of the report year, including abandonments during the report year.

National totals for each data item are required for all fields reported on Schedule A. This information is to be entered in the last unused field data block of the Schedule A filing. See the end of these Schedule A instructions for further information on reporting national summary totals.

SECTION 1.0: Operator and Report Identification Data

This information is to be reported on each Schedule A submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) — Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

Item 1.2: Operator Name (35) — Enter the first 35 characters of the operator name from the Cover Page/Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) — Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) — Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) — Enter the current page number in this schedule series.

SECTION 2.0: Field Data (Operated Basis)

The field data blocks, items 2.1 through 2.4, are utilized by both the Category I and Category II respondents to report their production and proved reserves on the field-level. Category I (large) operators MAY NOT use subitem 6 (production from reserves not estimated) for any data entry.

NOTE

All Category II operators are required to complete subitems 1, 2, 3 and 5. Subitem 7 must also be completed if this information is available.
Category II operators who have reserve estimates should complete Columns (a) through (i), subitems 14 through 17, as appropriate.
Category II operators who do not have proved reserve estimates should use subitem 6, Columns (a) through (d), to report field production data. In the event that the operator has partial reserve estimates for a given field, use subitem 6 to report production for that portion for which no reserve estimates are available, and subitems 14 through 17 to report available reserve and associated production data for the remaining part of the field. See also the end of these Schedule A instructions for information on how to report national summary totals.

Item Instructions for Field Data Blocks:

Items 2.1 thru 2.4: –

Subitem 1: State Abbreviation (2) – Enter the two-character alphabetic abbreviation of the state to which data reported for this field pertain. For offshore fields, use the abbreviation of the adjacent state. (See LOCATION CODES in the Glossary.)

Subitem 2: Subdivision Code (2) – Enter the two-digit code of the appropriate geographic subdivision to which data reported for this field pertain; leave blank if not applicable. (See LOCATION CODES in the Glossary.)

Subitem 3: County Code (3) – For onshore areas, enter the three-digit numeric code for the county or parish in which the field is located. If the field is located in more than one county, enter the code of the county which contains the largest lease acreage, overlying proved reserves, which you operate. This county code should match the Federal Information Processing Standards (FIPS) code for that particular county or parish. For offshore areas, leave this subitem blank. (See COUNTY CODES in Section B of the Glossary for sources of FIPS codes.)

Subitem 4: Field Code (6) – This space is provided for future use. A unified field coding system is currently being developed, but has not yet been implemented.

Subitem 5: Field Name (26) Enter the name of the field to which data entered in this data block item pertain. If this is a new field discovery, indicate such fact in a footnote on Schedule C. (See FIELD NAMING CONVENTIONS in the Glossary.)

Subitem 6: Report Year Production From Properties For Which Reserves Were Not Estimated (10) – This subitem is for use ONLY by Category II operators.

Subitem 7: Indicated Additional Reserves of Crude Oil (10) – Enter the estimated volumes of crude oil which may become available through the application of improved recovery techniques. (See INDICATED ADDITIONAL RESERVES OF CRUDE OIL in the Glossary.)

Subitem 8: Footnote (1) – Enter an 'X' if there is further explanatory information pertaining to data for this field contained on Schedule C, Footnotes. Leave blank if there is no footnote information.

Subitem 9: OCS Block Number (6) – For offshore fields, enter the block number, if it exists, of that offshore block which contains your largest lease acreage, overlying proved reserves. This block number need not be identical to the block number appearing in the field name. If two blocks have equal proved acreage, enter the number of the block having the earliest lease date; arbitrarily choose one block number if multiple answers are still possible given these selection rules. Leave blank if OCS block number is not applicable.

Subitem 10: Federal Lease Number (10) –

Offshore fields: Enter the numeric portion of the OCS lease number (excluding the initial letter) which is associated with the block number reported in subitem 9. Exclude hyphens.

Onshore fields: Enter the numeric portion of the Federal lease number (excluding the initial letter) of that lease which contains your largest lease acreage, overlying proved reserves. If two leases have equal proved lease acreage, enter the number of the lease having the earliest lease date; arbitrarily choose one lease number if multiple answers are still possible given these selection rules. Leave blank if Federal lease number is not applicable.

SPECIFIC INSTRUCTIONS (Continued)

Subitem 11: Water Depth (5) – For an offshore field, enter the depth of water (from mean sea level to seabed) over the field, in feet. Leave blank if an onshore field.

Subitem 12: Field Discovery Year (4) – Enter the calendar year in which the field was discovered. Footnote on Schedule C and check subitem 8 if this represents a change from a previously reported discovery year for this field. Enter 'NA' if not known. (See FIELD DISCOVERY YEAR in the Glossary.)

Subitem 13: Number of Reservoirs in Field (4) – Enter the number of reservoirs in which you operate in this field. This reservoir count should include any reservoirs having Indicated Additional Reserves of Crude Oil, or which were abandoned during the report year due to proved reserve depletion.

Subitem 14: Crude Oil (MBbls)
and
Subitem 15: Associated-Dissolved Gas (MMcf)
and
Subitem 16: Nonassociated Gas (MMcf)
and
Subitem 17: Lease Condensate (MBbls).

Column (A): Reserves, End of Prior Report Year (10) – Enter the volumes of proved reserves at the end of the previous report year. Enter a zero (0) for a new field. (See PROVED RESERVES OF CRUDE OIL, PROVED RESERVES OF LEASE CONDENSATE and PROVED RESERVES OF NATURAL GAS in the Glossary; also, Section H, REPORTING STANDARDS, in the general instructions.)

Column (B): Revision Increases (10) – Enter the positive (+) changes to 'Reserves, End of Prior Report Year' attributable to upward revisions made during the report year. Enter a zero (0) for a new field or if there were no revisions. Explain any revision in excess of 2,500 MBbls of liquid or 15,000 MMcf of gas in a footnote on Schedule C and check subitem 8. To the extent that reserves are revised upward due to implementation of secondary or tertiary recovery techniques, such revisions should be indicated by volume and by recovery method in a Schedule C footnote. Also, separately indicate the volume of any upward revisions due to the transfer of reserves previously reported as 'Indicated Additional Reserves of Crude Oil'. (See REVISIONS in the Glossary.)

Column (C): Revision Decreases (10) – Enter the negative (-) changes to 'Reserves, End of Prior Report Year' attributable to downward revisions made during the report year. Do not enter a minus sign, entries in this column are assumed to be negative. Enter a zero (0) for a new field or if there were no revisions. Explain any revision in excess of 2,500 MBbls of liquid or 15,000 MMcf of gas in a footnote on Schedule C and check subitem 8. (See REVISIONS in the Glossary.)

Column (D): Extensions (10) – Enter the increases to 'Reserves, End of Prior Report Year' attributable to extensions made during the current report year. Enter a zero (0) for a new field or if there were no extensions. (See EXTENSIONS in the Glossary.)

Column (E): New Field Discoveries (10) – If the field was discovered during the report year, enter the estimated initial volumes of proved reserves attributable thereto (before reducing it by production during the report year, if any.) Enter a zero (0) if this is not a new field. (See NEW DISCOVERIES in the Glossary.)

Column (F): New Reservoirs in Old Fields (10) – If this is an old field and any new reservoir discoveries were made in it during the report year, enter the estimated initial volumes attributable thereto, (before reducing it by production during the report year, if any.) Enter a zero (0) if this is not an old field or if there were no new reservoirs discovered in it. (See NEW FIELD, NEW RESERVOIR, NEW RESERVOIR DISCOVERIES IN OLD FIELDS and OLD FIELD in the Glossary.)

Column (G): Report Year Production (10) – Enter the volumes produced from the field during the report year. Enter a zero (0) if there was no production from the field. (See PRODUCTION, CRUDE OIL, PRODUCTION, LEASE CONDENSATE and PRODUCTION, NATURAL GAS in the Glossary.)

Column (H): Reserves, End of Report Year (10) – Enter the volumes of proved reserves at the end of the report year. Enter a zero (0) if the field is depleted. This item should be the algebraic sum of Columns (a)+(b)+(d)+(e)+(f), less Columns (c) and (g).

Column (I): Nonproducing Reserves (10) – Enter the estimated volumes of proved reserves in the field which were in nonproducing status at the end of the report year. Enter a zero (0) if there were none. (See NONPRODUCING RESERVOIRS in the Glossary.)

NATIONAL TOTALS

After all fields in which you operate have been reported on Schedule A, sum each volumetric data element in which you have reported volumes for any field. This generates national totals for each of the subitems 6, 7, and 14 through 17. Enter these national totals in the appropriate subitem locations of the first unused field data block, items 2.1 through 2.4. Enter "ZZ" in subitem 1, State Abbreviation, and "NATIONAL TOTALS" in subitem 4, Field Name, to identify these data as national summary totals.

3. SCHEDULE B – "Commitment Status of Proved Natural Gas Reserves, by State and Subdivision"

SECTION 1.0: Operator and Report Identification Data
This information is to be reported on each Schedule B submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) – Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

Item 1.2: Operator Name (35) – Enter the first 35 characters of the operator name from the Cover Page /Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) – Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) – Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) – Enter the current page number in this schedule series.

SECTION 2.0: Commitment Status of Proved Natural Gas Reserves (Ownership Basis)
Report in this section the total proved reserves of natural gas on a Gross Working Interest Ownership Basis, according to the commitment status of the reserves. (See COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES in the Glossary.)

Item Instructions:

Items 2.1 thru 2.3:

Subitem 1: State Abbreviation (2) – Enter the two-character alphabetic abbreviation of the state to which data reported for this field pertain. For offshore fields, use the abbreviation of the adjacent state. (See LOCATION CODES in the Glossary.)

Subitem 2: Subdivision Code (2) – Enter the two-digit code of the appropriate geographic subdivision to which data reported for this field pertain; leave blank if not applicable. (See LOCATION CODES in the Glossary.)

Subitem 3: Footnote (1) – Enter an 'X' if there is further explanatory information pertaining to data for this field contained on Schedule C, Footnotes. Leave blank if there is no footnote information.

Subitem 4: Interstate Contracts – Enter in Columns (A) thru (G), the proved natural gas reserves as of December 31 of the report year committed for sale under interstate contracts. (See INTERSTATE CONTRACTS in the Glossary.)

Subitem 5: Intrastate Contracts – Enter in Columns (A) thru (G), the proved natural gas reserves as of December 31 of the report year, committed for sale under intrastate contracts. (See INTRASTATE CONTRACTS in the Glossary.)

SPECIFIC INSTRUCTIONS (Continued)

The subcategories for these columns are:

Columns (A) and (B): For Resale, Long Term (10) – Enter the volumes of proved reserves of natural gas committed for resale to pipelines or distributors, respectively, under "long term" contracts. (See INTERSTATE CONTRACT, INTRASTATE CONTRACT, INTERSTATE PIPELINE, INTRASTATE PIPELINE and LOCAL DISTRIBUTION COMPANY in the Glossary.)

Columns (C) and (D): For Resale, Short Term (10) – Enter the volumes of proved reserves of natural gas committed for resale to pipelines or distributors, respectively, under "short term" contracts. (See INTERSTATE CONTRACT, INTRASTATE CONTRACT, INTERSTATE PIPELINE, INTRASTATE PIPELINE and LOCAL DISTRIBUTION COMPANY in the Glossary.)

Column (E): Direct Sale, Industrial (10) – Enter the volumes of proved reserves of natural gas contractually committed to industrial end-users. (See COMMITMENT STATUS: Direct Sale in the Glossary.)

Column (F): Direct Sale, Other (10) – Enter the volume of proved reserves of natural gas contractually committed to end-users other than industrial end-users. (See COMMITMENT STATUS, Direct Sale in the Glossary.)

Column (G): Warranty (10) – Enter the volumes of proved reserves committed under warranty contracts. Report only the volume of proved reserves held for fulfillment of warranty gas sales contracts as of the end of the report year. Do not report contract sales volumes. In a footnote on Schedule C, indicate the volume of proved reserves that may yet need to be dedicated to fulfill the terms of this type of contract. (See COMMITMENT STATUS, Warranty in the Glossary.)

Subitem 6: Other (10) – Enter, in Columns (A) thru (D), the volumes of proved natural gas reserves committed for uses other than sale, or uncommitted, as of December 31, of the report year.

The subcategories for these columns are:

Column (A): Company Use, Feedstock (10) – Enter the estimated volume of proved reserves committed for use as feedstock in plants owned by you. (See FEEDSTOCK in the Glossary.)

Column (B): Company Use, Fuel (10) – Enter the estimated volume of proved reserves committed for use as fuel in your operations. (See FUEL USE in the Glossary.)

Column (C): Other Committed (10) – Enter the estimated volume of proved reserves committed under any other arrangement. Specify details in a footnote on Schedule C.

Column (D): Uncommitted (10) – Enter the estimated volume of proved reserves uncommitted as of December 31, of the report year.

Subitem 7: Commitment Status of Nonproducing Natural Gas Reserves – Report in this subitem the total proved reserves of natural gas in nonproducing reservoirs according to the following commitment status categories.

Column (A): Committed Interstate (10) – Enter the volumes of nonproducing proved natural gas reserves committed under interstate contracts.

Column (B): Committed Intrastate (10) – Enter the volumes of nonproducing proved natural gas reserves committed under any arrangement, company use or commitment, other than interstate contracts.

Column (C): Uncommitted (10) – Enter the volumes of nonproducing proved natural gas reserves not committed under any arrangement.

4. SCHEDULE C – "Footnotes"

At a minimum, submit footnotes in clarification of reported data items when required to do so by the instructions for the applicable schedule. Additionally, you may footnote any other reported item if this will enhance its clarity.

SECTION 1.0: Operator and Report Identification Data
This information is to be reported for each Schedule C submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) – Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

Item 1.2: Operator Name (35) – Enter the first 35 characters of the operator name from the Cover Page/Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) – Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) – Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) – Enter the current page number in this schedule series.

SECTION 2.0: Footnote Data

Use all lines on each Schedule C page before using additional pages. Columns (a) thru (e) must be filled in only for the first line of each footnote.

Column (a): Schedule Letter (5) – Enter the schedule number referenced by the footnote which starts on this line.

Column (b): Page Number (5) – Enter the page number that is referenced by this footnote.

Column (c): Item Number (5) – Enter the item number that is referenced by this footnote.

Column (d): Subitem Number (5) –
Enter the subitem number (1 thru 17) that is referenced by this footnote. Leave blank if not applicable.

Column (e): Column Designation (5) – Enter the column designation (alphabetic character) that is referenced by this footnote, if applicable. Otherwise leave blank.

Column (f): Sequence Number (5) – Enter the line number of this line of the footnote. Begin with '1' and increase this number one unit with each successive line of the footnote. Always revert to '1' with each new footnote.

Column (g): Notation (75) – Enter the text of the footnote, using as many lines as necessary.

FORM EIA-23

GLOSSARY AND CODES

The definitions contained herein have been formulated with reference to the particular purposes to be served by Form EIA-23. They are not necessarily synonymous with the same or similar terms as used in DOE regulations, and are not to be construed as definitions applicable for any purpose other than for the collection and reporting of data on Form EIA-23.

Contents

J. Definitions 14

K. Location Codes and Maps 19

1. State Abbreviation and Geographic Subdivision Codes 19
2. Subdivision Maps 20

a. Alaska 20
b. California 21
c. Louisiana 22
d. New Mexico 23
e. Texas 24

L. Field Naming Conventions 25

J. Definitions

AFFILIATED (ASSOCIATED) COMPANY — An "affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. (See PERSON and CONTROL.)

COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES — Applies to those proved reserves committed to a customer or other recipient under terms of a gas purchase contract, by advance payment agreements or by some other contractual arrangements, or set aside for the respondent's own use. Proved reserves not so committed are classified as "uncommitted". Commitment status for purposes of this form is not necessarily the same as the terms "committed" or "dedicated" as defined in Section 2(18)(a) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621).

Commitment Categories

1. *For Resale:* Proved natural gas reserves committed for sale to natural gas pipeline or distribution utilities for resale purposes.
2. *Direct Sale:* Direct sales are sales made to an end-user, as follows:
   a. *Direct Sale — Industrial* — Includes sales to industrial end-users, sales to other producers, sales to electric utilities, and sales to industrial users that involve transportation of gas by interstate pipelines under FPC Order No. 533 and under FERC Order Nos. 2, 27, 30 and 30-A to the extent that the respondent has knowledge of such arrangements. (See INTERSTATE PIPELINE.)
   b. *Direct Sale — Other* — Includes sales to end-users other than industrial customers, to gas processing plants where the ultimate disposition of the gas is unknown to the respondent, and to local distribution companies who deliver to residential and commercial customers to the extent that the respondent has knowledge of such arrangements. (See LOCAL DISTRIBUTION COMPANY.)
3. *Warranty:* Proved natural gas reserves committed through gas sales agreements wherein the seller warrants that an amount of gas will be available to meet the contracted commitments over the life of the contract.
4. *Company Use:* Proved natural gas reserves committed for use as feedstock in respondent-owned plants or as fuel in respondent's operations. (See FEEDSTOCK and FUEL USE.)
5. *Other Committed:* Proved natural gas reserves committed under any arrangements other than (1), (2), (3), or (4) above (e.g., gas taken in-kind by a royalty owner; vented and flared gas).
6. *Uncommitted:* Proved natural gas reserves that have not been committed by the respondent, including those reserves under negotiation or option as of December 31 of the report year.

CONTROL — The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. (See PERSON.)

CORRECTIONS — See *REVISIONS*

CRUDE OIL — A mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Crude oil may also include:

1. Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and that subsequently are commingled with the crude stream without being separately measured; and
2. Small amounts of nonhydrocarbons produced with the oil.

NOTE: When a State regulatory agency specifies a definition of crude oil which differs from that set forth above, the State definition is to be followed and its use footnoted on Schedule C.

EXTENSIONS — The reserves credited to a reservoir because of enlargement of its proved area. Normally the ultimate size of newly discovered fields, or newly discovered reservoirs in old fields, is determined by wells drilled in years subsequent to discovery. When such wells add to the proved area of a previously discovered reservoir, the increase in proved reserves is classified as an extension.

FEEDSTOCK – Natural gas used as a raw material for its nonfuel chemical properties in creating an end product.

FIELD – An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

FIELD AREA – A geographic area encompassing two or more pools that have a common gathering and metering system, the reserves of which are reported as a single unit. This concept applies primarily to the Appalachian region. (See POOL.)

FIELD DISCOVERY YEAR – The calendar year in which a field was first recognized as containing economically recoverable accumulations of oil and/or gas.

FIELD SEPARATION FACILITY – A surface installation designed to recover lease condensate from a produced natural gas stream, frequently originating from more than one lease.

FUEL USE – All natural gas used by the respondent, other than for feedstock, which was produced by the respondent and not purchased from other producers.

GAS PROCESSING PLANT – A surface installation designed to achieve the recovery of natural gas liquids from a stream of produced natural gas which may or may not have been processed, in whole or in part, through lease or field separation facilities, and to control the quality of the natural gas to be marketed. Some gas processing plants are additionally designed to recover propane, butanes, natural gasoline or other products.

GROSS WORKING INTEREST OWNERSHIP – Gross working interest ownership is the respondent's working interest in a given property plus the proportionate share of any royalty interest, including overriding royalty interest, associated with the working interest. (See definitions of WORKING INTEREST and ROYALTY (INCLUDING OVERRIDING ROYALTY) INTERESTS in the GLOSSARY, and examples in the GENERAL INSTRUCTIONS, p. 3.)

INDICATED ADDITIONAL RESERVES OF CRUDE OIL – Quantities of crude oil (other than proved reserves) which may become economically recoverable from existing productive reservoirs through the application of improved recovery techniques using current technology.

These recovery techniques may:

1) already be installed in the reservoir, but their effects are not yet known to the degree necessary to classify the additional reserves as proved, or

2) be installed in another similar reservoir, where the results of that installation can be used to estimate the indicated additional reserves.

Indicated additional reserves are not included in proved reserves due to their uncertain economic recoverability. When economic recoverability is demonstrated, the indicated additional reserves must be transferred to proved reserves as positive revisions.

INTERSTATE CONTRACTS – Interstate contracts commit gas for sale to interstate pipelines as defined in Sec. 2(15) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621), and to any other party located outside the State in which the reserves are located. They also include any gas reserves ultimately destined for the interstate market under Section 312 of the NGPA, to the extent that the respondent has knowledge of such arrangements. Long term contracts are those of more than two years duration; short term contracts are those of two years duration or less. (See INTERSTATE PIPELINE.)

INTRASTATE CONTRACTS – Intrastate contracts commit gas for sale to intrastate pipelines as defined in Sec. 2(16) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621), and to any other party located within the State in which the reserves are located. Long term contracts are those of more than two years duration; short term contracts are those of two years duration or less. (See INTRASTATE PIPELINE.)

INTERSTATE PIPELINE – The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.

INTRASTATE PIPELINE – The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (other than any such pipeline which is not subject to the jurisdiction of the Commission solely by reason of Section 1(c) of the Natural Gas Act).

LEASE CONDENSATE – A mixture consisting primarily of pentanes and heavier hydrocarbons which is recovered as a liquid from natural gas in lease or field separation facilities, exclusive of products recovered at natural gas processing plants or facilities the output of which is reported on Form EIA-64, "Natural Gas Liquids Operations Report." (See Natural Gas Liquids.)

LEASE SEPARATOR — A lease separator is a facility installed at the surface for the purpose of (a) separating gases from produced crude oil and water at the temperature and pressure conditions of the separator, and/or (b) separating gases from that portion of the produced natural gas stream which liquefies at the temperature and pressure conditions of the separator.

LOCAL DISTRIBUTION COMPANY — The term "local distribution company" means any person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption. This includes persons not subject to the jurisdiction of the Federal Energy Regulatory Commission by reason of Section 1(c) of the Natural Gas Act.

NATURAL GAS — A mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes. Typical nonhydrocarbon gases which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide and nitrogen. Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil, and are not distinguishable at the time as separate substances. (See NATURAL GAS, NONASSOCIATED AND NATURAL GAS, ASSOCIATED-DISSOLVED.)

NATURAL GAS, ASSOCIATED-DISSOLVED — The combined volume of natural gas which occurs in crude oil reservoirs either as free gas (associated) or as gas in solution with crude oil (dissolved).

NATURAL GAS, WET AFTER LEASE SEPARATION— The volume of natural gas remaining after removal of lease condensate in lease and/or field separation facilities, if any, and after exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. (See LEASE CONDENSATE, LEASE SEPARATOR, FIELD SEPARATION FACILITY.)

NATURAL GAS, NONASSOCIATED — Natural gas not in contact with significant quantities of crude oil in a reservoir.

NEW FIELD — A field discovered during the report year.

NEW FIELD DISCOVERIES — The volumes of proved reserves of crude oil and/or natural gas discovered in new fields during the report year.

NEW RESERVOIR — A reservoir discovered during the report year.

NEW RESERVOIR DISCOVERIES IN OLD FIELDS — The volumes of proved reserves of crude oil and/or natural gas discovered during the report year in new reservoir(s) located in old fields.

NONPRODUCING RESERVOIRS — Reservoirs in which proved oil and/or gas reserves have been identified, but which did not produce during the last 3 months of the report year regardless of the availability and/or operation of production, gathering, or transportation facilities.

OLD FIELD — A field discovered prior to the report year.

OPERATOR — The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells as of December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil, natural gas, and/or lease condensate in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" as of December 31. (See PERSON, PROVED RESERVES OF CRUDE OIL, PROVED RESERVES OF NATURAL GAS, PROVED RESERVES OF LEASE CONDENSATE, REPORT YEAR, AND RESERVOIR.)

OWNERSHIP — See GROSS WORKING INTEREST OWNERSHIP BASIS.

PARENT COMPANY — The parent company of a business entity is an affiliated company which exercises ultimate control over that entity, either directly or indirectly through one or more intermediaries. (See AFFILIATED (ASSOCIATED) COMPANY and CONTROL.)

PERSON — An individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

POOL — In general, a reservoir. In certain situations a pool may consist of more than one reservoir. (See FIELD AREA.)

PRODUCTION, CRUDE OIL — The volumes of crude oil which are extracted from oil reservoirs during the report year. These volumes are determined through measurement of the volumes delivered from lease storage tanks, or at the point of custody transfer, with adjustment for (1) net differences between opening and closing lease inventories, and for (2) basic sediment and water. Oil used on the lease is to be considered production.

PRODUCTION, LEASE CONDENSATE — The volume of lease condensate produced during the report year. Lease condensate volumes include only those volumes recovered from lease or field separation facilities. (See definition of LEASE CONDENSATE.)

PRODUCTION, NATURAL GAS – The volume of natural gas withdrawn from reservoirs during the report year less (1) the volume returned to such reservoirs in cycling, repressuring of oil reservoirs and conservation operations; less (2) shrinkage resulting from the removal of lease condensate; and less (3) nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. Volumes of gas withdrawn from gas storage reservoirs and native gas which has been transferred to the storage category are not considered production.

PROVED RESERVES OF CRUDE OIL – Proved reserves of crude oil as of December 31 of the report year are the estimated quantities of all liquids defined as crude oil, which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered proved if economic producibility is supported by actual production or conclusive formation test (drill stem or wire line), or if economic producibility is supported by core analyses and/or electric or other log interpretations. The area of an oil reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of crude oil placed in underground storage are not to be considered proved reserves.

Reserves of crude oil which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved crude oil reserves do not include the following: (1) oil that may become available from known reservoirs but is reported separately as "indicated additional reserves"; (2) natural gas liquids (including condensate); (3) oil, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (4) oil that may occur in undrilled prospects; and (5) oil that may be recovered from oil shales, coal, gilsonite and other such sources. It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved.

PROVED RESERVES OF LEASE CONDENSATE – Proved reserves of lease condensate as of December 31 of the report year are the volumes of lease condensate expected to be recovered in future years in conjunction with the production of proved reserves of natural gas as of December 31 of the report year, based on the recovery efficiency of lease and/or field separation facilities installed as of December 31 of the report year. (See LEASE CONDENSATE and PROVED RESERVES OF NATURAL GAS.)

PROVED RESERVES OF NATURAL GAS – Proved reserves of natural gas as of December 31 of the report year are the estimated quantities which analysis of geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered proved if economic producibility is supported by actual production or conclusive formation test (drill stem or wire line), or if economic producibility is supported by core analyses and/or electric or other log interpretations.

The area of a gas reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or gas-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of natural gas placed in underground storage are not to be considered proved reserves.

For natural gas an appropriate reduction in the reservoir gas volume is made to cover the removal of the liquefiable portions of the gas in lease and/or field separation facilities and the exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. It is to be assumed that compression will be initiated if and when economically justified.

REPORT YEAR – The calendar year to which data reported herein pertain; the current report year is shown on the Cover Page.

RESERVES – See PROVED RESERVES.

RESERVE CHANGES – Positive and negative revisions, extensions, new reservoir discoveries in old fields, and new field discoveries, which occurred during the report year.

RESERVOIR – A porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

REVISIONS–Changes to prior year-end proved reserves estimates, either positive or negative, resulting from new information other than an increase in proved acreage (extension), correction of prior report year arithmetical or clerical errors, or adjustment of reported prior-year production volumes. Revisions for a given report year also include increases of proved reserves associated with the installation of improved recovery techniques or equipment.

ROYALTY (INCLUDING OVERRIDING ROYALTY) INTERESTS – These interests entitle their owner(s) to a share of the mineral production from a property or to a share of the proceeds therefrom. They do not contain the rights and obligations of operating the property, and normally do not bear any of the costs of exploration, development and operation of the property.

SUBDIVISION – A prescribed portion of a given State or other geographical region defined herein for statistical reporting purposes. (See State Abbreviation and Subdivision Codes, p. of this Glossary.)

SUBSIDIARY COMPANY – A company which is controlled through the ownership of voting stock, or a corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group. (See CONTROL.)

TOTAL OPERATED BASIS – The total reserves or production associated with the wells operated by an individual operator. This is also commonly known as the "gross operated" or "8/8ths" basis.

WORKING INTEREST – A working interest permits the owner(s) to explore, develop and operate a property. The working interest owner(s) bear(s) the costs of exploration, development and operation of the property, and in return is (are) entitled to a share of the mineral production from the property or to a share of the proceeds therefrom.

K. LOCATION CODES and MAPS

Wherever applicable, the following codes are those specified in the Federal Information Processing Standards (FIPS).

1. State Abbreviation and Geographic Subdivision Codes

(State Abbreviation Used In: Schedule A, Subitem 1 of Items 2.1 through 2.4; Schedule B, Subitem 1 of Items 2.1 through 2.3).

(Subdivision Code Used In: Schedule A, Subitem 2 of Items 2.1 through 2.4; Schedule B, Subitem 2 of Items 2.1 through 2.3).

*State Name and Geographic Subdivisions**	*State Abbreviation*	*Subdivision Code*
Atlantic Coast - Federal Offshore	AC	00
Alaska - South Federal Offshore	AK	00
Alaska - South State Offshore**	AK	05
Alaska - South Onshore	AK	10
Alaska - North Onshore and Offshore***	AK	50
Alabama - Onshore	AL	Blank
Alabama - State Offshore**	AL	05
Arkansas	AR	Blank
Arizona	AZ	Blank
California - Federal Offshore	CA	00
California - State Offshore**	CA	05
California - San Joaquin Basin Onshore	CA	10
California - Coastal Region Onshore	CA	50
California - Los Angeles Basin Onshore	CA	90
Colorado	CO	Blank
Connecticut	CT	Blank
District of Columbia	DC	Blank
Delaware	DE	Blank
Florida - Onshore	FL	Blank
Florida - State Offshore**	FL	05
Georgia	GA	Blank
Hawaii	HI	Blank
Iowa	IA	Blank
Idaho	ID	Blank
Illinois	IL	Blank
Indiana	IN	Blank
Kansas	KS	Blank
Kentucky	KY	Blank
Louisiana - South Federal Offshore	LA	00
Louisiana - South State Offshore**	LA	05
Louisiana - South Onshore	LA	10
Louisiana - North	LA	50
Massachusetts	MA	Blank
Maryland	MD	Blank
Maine	ME	Blank
Michigan	MI	Blank
Minnesota	MN	Blank
Missouri	MO	Blank
Mississippi - Onshore	MS	Blank
Mississippi - State Offshore**	MS	05
Montana	MT	Blank
North Carolina	NC	Blank
North Dakota	ND	Blank
Nebraska	NE	Blank
New Hampshire	NH	Blank
New Jersey	NJ	Blank
New Mexico - East	NM	10
New Mexico - West	NM	50
Nevada	NV	Blank
New York	NY	Blank
Gulf of Mexico - Other Federal Offshore****	OG	00
Ohio	OH	Blank
Oklahoma	OK	Blank
Pacific Coast - Other Federal Offshore****	OP	00
Oregon	OR	Blank
Pennsylvania	PA	Blank
Rhode Island	RI	Blank
South Carolina	SC	Blank
South Dakota	SD	Blank
Tennessee	TN	Blank
Texas - Federal Offshore	TX	00
Texas - State Offshore**	TX	05
Texas - Railroad Commission District 1	TX	10
Texas - Railroad Commission District 2 Onshore	TX	20
Texas - Railroad Commission District 3 Onshore	TX	30
Texas - Railroad Commission District 4 Onshore	TX	40
Texas - Railroad Commission District 5	TX	50
Texas - Railroad Commission District 6	TX	60
Texas - Railroad Commission District 7B	TX	70
Texas - Railroad Commission District 7C	TX	75
Texas - Railroad Commission District 8	TX	80
Texas - Railroad Commission District 8A	TX	85
Texas - Railroad Commission District 9	TX	90
Texas - Railroad Commission District 10	TX	95
Utah	UT	Blank
Virginia	VA	Blank
Vermont	VT	Blank
Washington	WA	Blank
Wisconsin	WI	Blank
West Virginia	WV	Blank
Wyoming	WY	Blank
National Totals	ZZ	Blank

COUNTY CODES

Used In: Schedule A, Items 2.1- 2.4 Subitem 3

County codes, Parish codes (in Louisiana), and Census Division codes (in Alaska), used in the completion of Schedule A, may be found in FIPS Publication 6-3, available at most municipal and college libraries. FIPS county codes may also be found in the *Commercial Atlas and Marketing Guide*, Rand McNally and Company, Chicago. The EIA-23 Coordinator can be contacted at (405) 360-1971 for assistance with FIPS codes.

2. *SUBDIVISION MAPS (See next five pages.)*

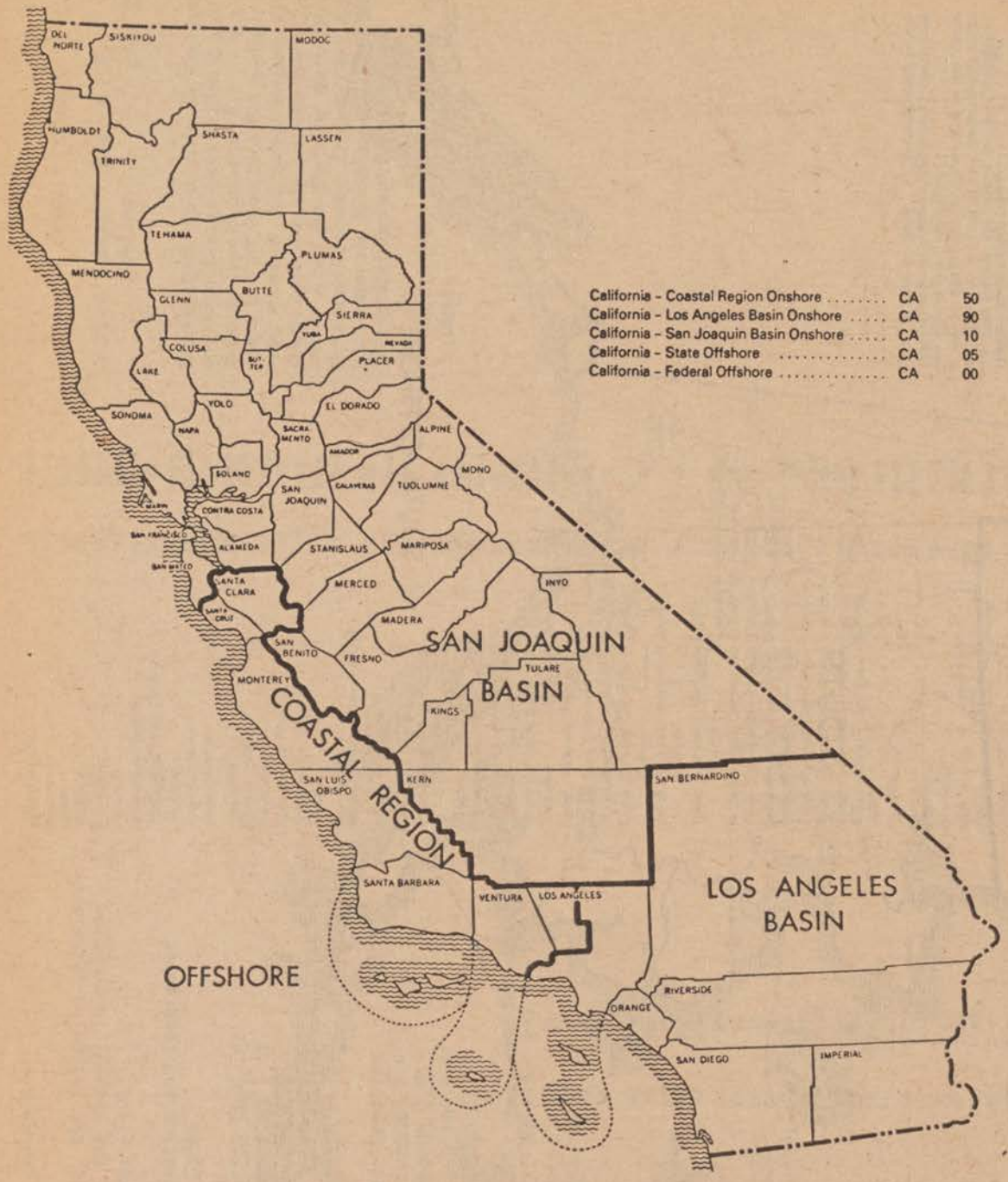
*Refer to maps on pages for subdivision boundaries in the States of Alaska, California, Louisiana, New Mexico, and Texas, respectively.

**If you are not certain whether an offshore field lies in the Federal or the State domain, assume that it lies in the State domain and indicate this in a footnote on Schedule 4.

***Includes both State and Federal domain.

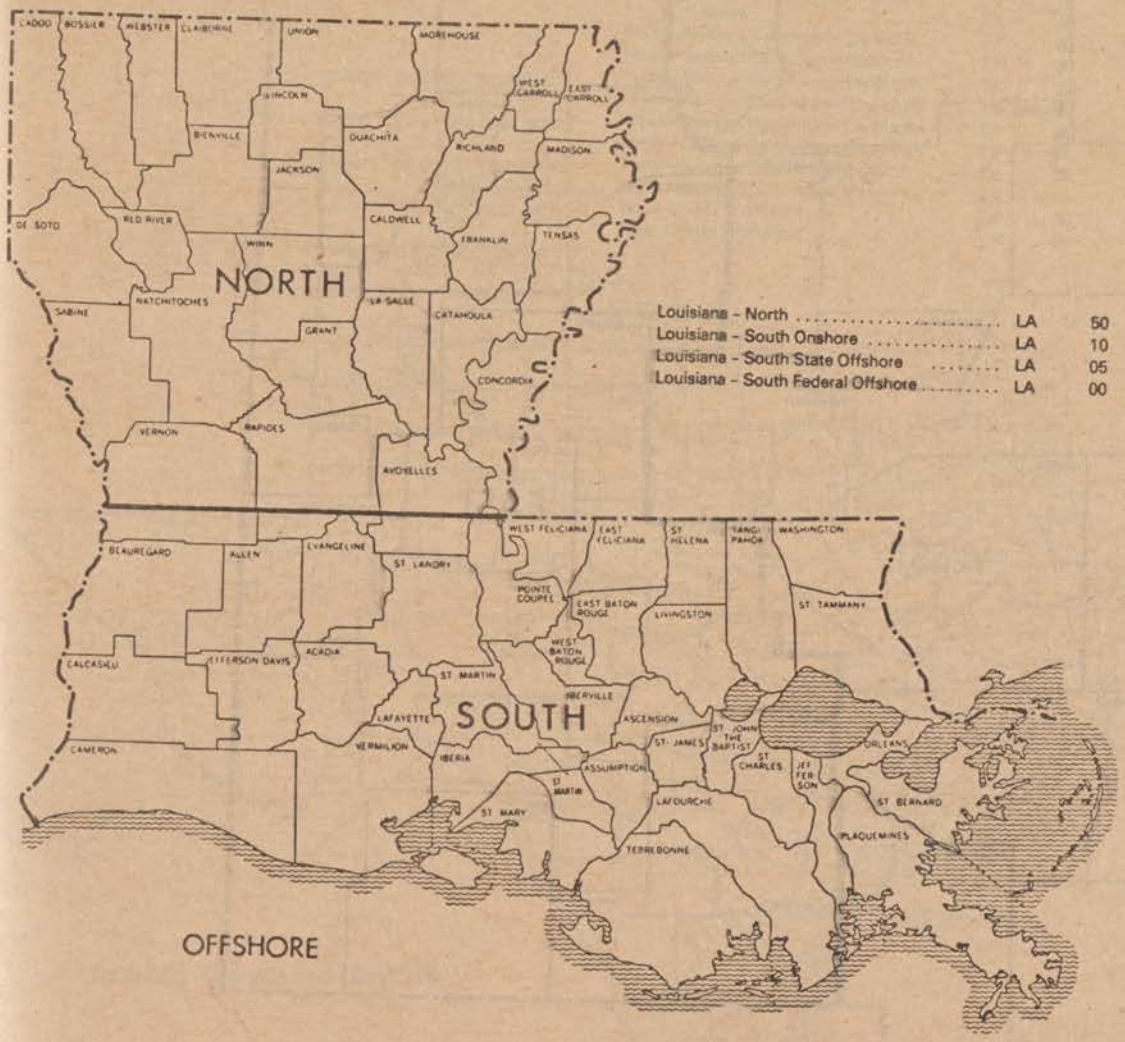
****Gulf of Mexico – Other Federal Offshore includes areas adjacent to Mississippi, Alabama and Florida only. Pacific Coast – Other Federal Offshore includes areas adjacent to Oregon and Washington only.

Subdivisions of Alaska



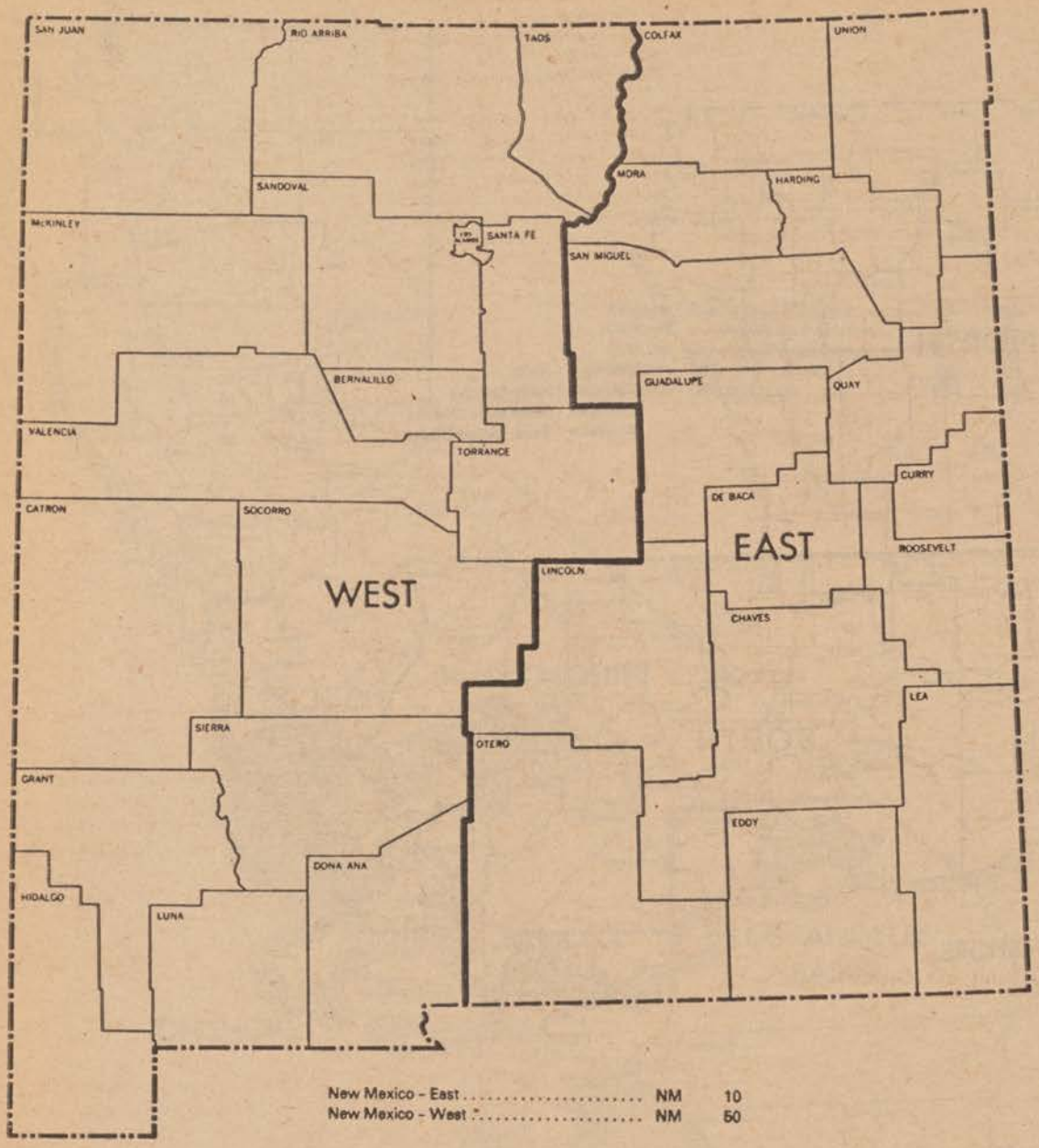
California - Coastal Region Onshore	CA	50
California - Los Angeles Basin Onshore	CA	90
California - San Joaquin Basin Onshore	CA	10
California - State Offshore	CA	05
California - Federal Offshore	CA	00

Subdivisions of California



Louisiana - North	LA	50
Louisiana - South Onshore	LA	10
Louisiana - South State Offshore	LA	05
Louisiana - South Federal Offshore	LA	00

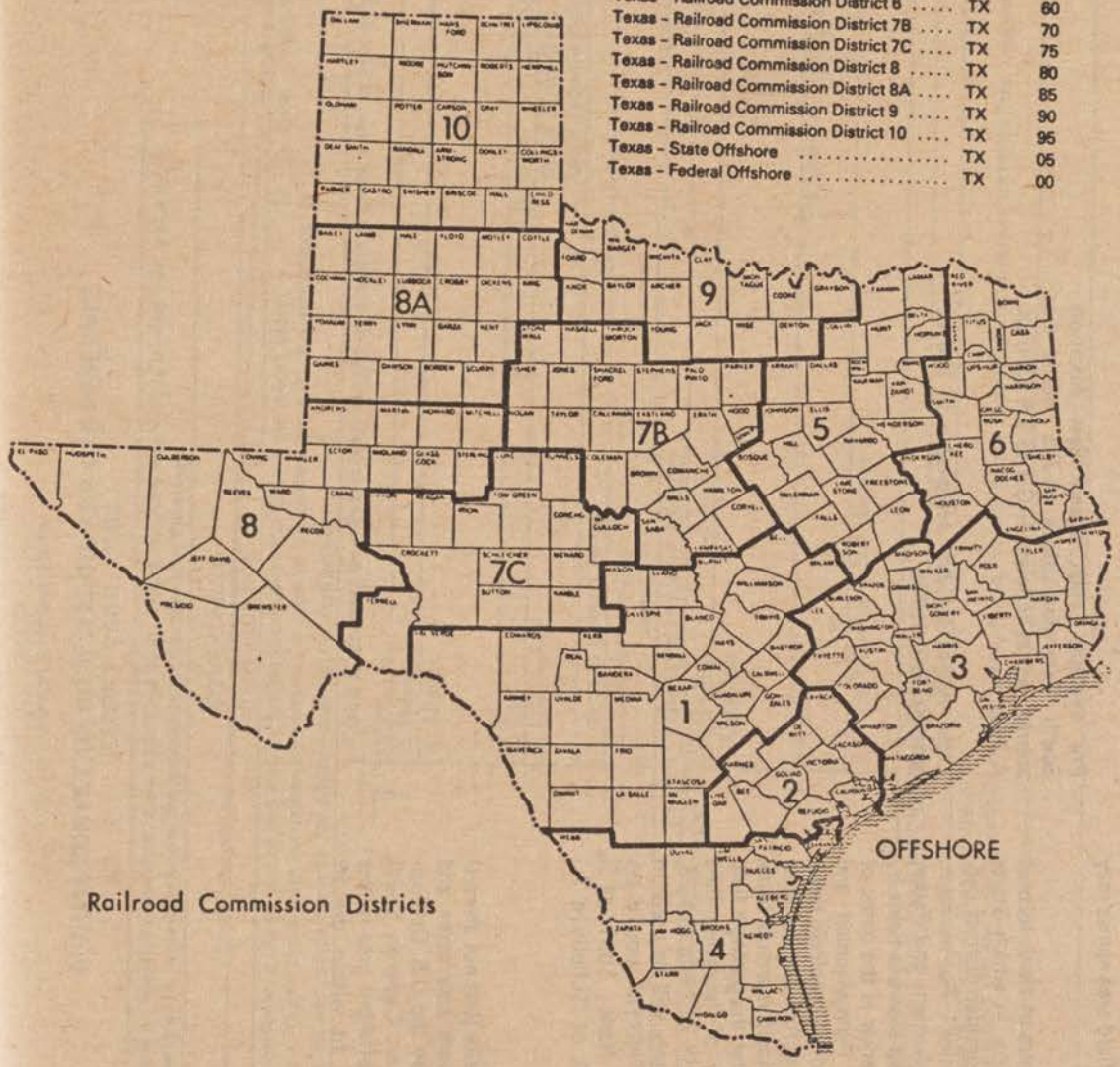
Subdivisions of Louisiana



New Mexico - East	NM	10
New Mexico - West	NM	50

Subdivisions of New Mexico

Texas - Railroad Commission District 1	TX	10
Texas - Railroad Commission District 2 Onshore	TX	20
Texas - Railroad Commission District 3 Onshore	TX	30
Texas - Railroad Commission District 4 Onshore	TX	40
Texas - Railroad Commission District 5	TX	50
Texas - Railroad Commission District 6	TX	60
Texas - Railroad Commission District 7B	TX	70
Texas - Railroad Commission District 7C	TX	75
Texas - Railroad Commission District 8	TX	80
Texas - Railroad Commission District 8A	TX	85
Texas - Railroad Commission District 9	TX	90
Texas - Railroad Commission District 10	TX	95
Texas - State Offshore	TX	05
Texas - Federal Offshore	TX	00



Railroad Commission Districts

Subdivisions of Texas

L. Field Naming Conventions

1. FIELDS

In most instances, field names will reflect the conventions imposed by State oil and gas regulatory agencies. In the absence of such authority, field names which have come into general acceptance in an area may be used. In the Appalachian Region field area names may be used.

Exceptions occur for names of fields located in Texas and New Mexico, in which States the regulatory agencies consider distinct geologic reservoirs to be "fields". For example, in Texas, Parker (Pennsylvanian) and Parker (Wolfcamp) are considered separate fields by the State. In actuality, Parker is the name of the geologic field and Pennsylvanian and Wolfcamp are the names of the geologic reservoirs in the field (by Texas Railroad Commission convention, the geologic reservoir name appears in parentheses after the geologic field name). For the purpose of reporting field names on Schedule A of Form EIA-23, the geologic field name only will be used. In the example above, "PARKER" would be entered as the Field Name, Subitem 5, in a field data block of Schedule A.

Offshore field names usually (but not always) consist of a basic offshore area name and block number specified by the U.S. Geological Survey. Example: East Cameron South Addition Block 265. If offshore area names must be abbreviated to fit within the 26 characters allowed, the following standard abbreviations should be used:

NORTH	N	NORTH ADDITION	NA
SOUTH	S	SOUTH ADDITION	SA
EAST	E	EAST ADDITION	EA
WEST	W	WEST ADDITION	WA
BLOCK	BLK	SOUTH EXTENSION	SX
ISLAND	IS	EAST EXTENSION	EX

For example, High Island East Addition South Extension Block A-375 would be abbreviated as follows: HIGH IS EA SX BLK A-375.

Lease names *are not acceptable* in lieu of geologic field names.

U.S. DEPARTMENT OF ENERGY
Box OK
Norman, Oklahoma 73070

Form Approved
OMB No.
(Expires

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
REPORT YEAR: 1982

This report is mandatory under Public Laws 93-275 and 95-91. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. See Instructions for Confidentiality Statement.

COVER PAGE

IDENTIFICATION

1. Were you an operator *(see definition of operator, p. 1)* of one or more oil or gas wells on December 31, of the report year?
(1) ☐ No . . . *Complete only items 3 thru 10 and the Attestation below and return this page to the address given in the instructions*
(2) ☐ Yes . . . *Complete the enclosed forms and return them to the address given in the instructions*

2. I.D. Code FOR DOE USE ONLY

If label is incorrect or information is missing or no label is given, enter correct information below.

3. Name

4. Address

5. City | 6. State | 7. Zip Code

8. EIN Number | Check if Attestor's Social Security Number ☐

9. Name of Contact Person

10. Telephone Number
Area Code ( ) _____ - _____

PARENT COMPANY IDENTIFICATION

11. Is there a parent company which exercises ultimate control over the respondent?
(1) ☐ No . . . *Skip to 18 thru 22*
(2) ☐ Yes . . . *Answer 12 thru 22*

12. Name

13. Address

14. City | 15. State | 16. Zip Code

17. Parent Company EIN Number

18. What is the total number of pages (including this cover page) submitted in this filing?

ATTESTATION

(This report must be attested to by a responsible official of the company.)
I hereby swear or affirm that I have read the report and am familiar with its contents, and that to the best of my knowledge, information, and belief the information provided and appended is true and complete.

19. Name of Attestor | 20. Signature

21. Title | 22. Date

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

EIA-23 (5-82)

21.

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE A – OPERATED PROVED RESERVES, PRODUCTION, AND RELATED DATA BY FIELD

(Report all liquid volumes in thousands of barrels [MBbls]; gas volumes in millions of cubic feet [MMcf] at 60° F and 14.73 psia.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 Operator I.D. Code	1.2 Operator Name	Report Date	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY
		12, 31, 82				

2.0 FIELD DATA (OPERATED BASIS)

2.1

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC-DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CONDENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14. CRUDE OIL (MBbls)									
15. ASSOCIATED-DISSOLVED GAS (MMcf)									
16. NONASSOCIATED GAS (MMcf)									
17. LEASE CONDENSATE (MBbls)									

2.2

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC-DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CONDENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14. CRUDE OIL (MBbls)									
15. ASSOCIATED-DISSOLVED GAS (MMcf)									
16. NONASSOCIATED GAS (MMcf)									
17. LEASE CONDENSATE (MBbls)									

2.3

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC-DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CONDENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14. CRUDE OIL (MBbls)									
15. ASSOCIATED-DISSOLVED GAS (MMcf)									
16. NONASSOCIATED GAS (MMcf)									
17. LEASE CONDENSATE (MBbls)									

2.4

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC-DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CONDENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14. CRUDE OIL (MBbls)									
15. ASSOCIATED-DISSOLVED GAS (MMcf)									
16. NONASSOCIATED GAS (MMcf)									
17. LEASE CONDENSATE (MBbls)									

EIA-23 (5-82)

27

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE B – COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES

(Report all volumes of crude oil and lease condensate in thousands of barrels [MBbls]. Natural gas is to be reported in millions of cubic feet [MMcf] at 80°F and 14.73 psia.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 Operator I.D. Code	1.2 Operator Name	Report Date	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY
		12,31,82				

2.0 COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES (OWNERSHIP BASIS)

2.1

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed	Uncommitted
	(a) Feedstock	(b) Fuel	(c)	(d)
(6) Other (MMcf)				

	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)
(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)			

2.2

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed	Uncommitted
	(a) Feedstock	(b) Fuel	(c)	(d)
(6) Other (MMcf)				

	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)
(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)			

2.3

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed	Uncommitted
	(a) Feedstock	(b) Fuel	(c)	(d)
(6) Other (MMcf)				

	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)
(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)			

EIA-23 (5-82)

28

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE C – FOOTNOTES

1.0 OPERATOR AND REPORT IDENTIFICATION DATA					
1.1 Operator I.D. Code	1.2 Operator Name	Report Date 12, 31, 82	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY

2.0 FOOTNOTE DATA

Schedule Letter (a)	Page Number (b)	Item Number (c)	Subitem Number (d)	Column Designation (e)	Sequence Number (f)	Notation (g)

Comment Format

The following is the suggested format for providing comments on the revised Form EIR–23, "Annual Survey of Domestic Oil and Gas Reserves."

1. What is the basis of your interest in this annual survey of oil and gas reserves (e.g., are you a potential respondent, consultant, oil and gas analyst, corporate planner, etc.)?

2. Do the instructions provide enough information to enable you to complete the Form and are the instructions sufficiently clear? If not, which instructions require further clarification?

3. Should additional items be defined? Please list, if any.

4. Is the Form layout easy to follow and understand? What changes would you suggest to improve the clarity of the Form while retaining identical information content?

5. Given a choice, would you or your organization prefer to retain the current Form or adopt the proposed revision?

6. If you or your firm were a respondent to past Form EIA–23 surveys: (a) What is your estimate of the one-time cost and personnel hours necessary to accommodate the revised Form in your response procedures? (b) What is your estimate of the on-going cost and personnel hours necessary to respond to the entire Form on a continuing annual basis? (c) What is your estimate of the on-going cost and personnel hours required in providing *only* the gas commitment data collected on Schedule B?

[FR Doc. 82–19049 Filed 7–14–82; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Volume 688]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ARKANSAS OIL & GAS COMMISSION									
-ARKANSAS LOUISIANA GAS CO			RECEIVED:	06/23/82		JA: AR			
8239680		0311510106	103			CROTTS #2	ROSS	700.0	ARKANSAS LOUISIAN
8239701		0307110223	103			TICE #1-15-C	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239702		0307110220	103			TICE #1-15-T	CLARKSVILLE	900.0	ARKANSAS LOUISIAN
-ARKLA EXPLORATION COMPANY			RECEIVED:	06/23/82		JA: AR			
8239630		0313110193	103			KERSEY #1-C	BONANZA	500.0	ARKANSAS LOUISIAN
8239631		0313110193	103			KERSEY #1-T	BONANZA	500.0	ARKANSAS LOUISIAN
8239632		0313110153	103			MISSOURI IMPORVEMENT #1-33-C	BONANZA	545.0	ARKANSAS LOUISIAN
8239633		0313110153	103			MISSOURI IMPROVEMENT #1-33-T	BONANZA	730.0	ARKANSAS LOUISIAN
8239716		0304710197	103			PRICE #1	PETER PENDER	300.0	ARKANSAS LOUISIAN
8239718		0304710176	102-3			TURNER #1-T	PETER PENDER	438.0	ARKANSAS LOUISIAN
8239717		0304710176	103			TURNER #1-3-C	PETER PENDER	100.0	ARKANSAS LOUISIAN
-ART MACHIN & ASSOCIATES INC			RECEIVED:	06/23/82		JA: AR			
8239736		0302710738	103			T S GRAYSON #3	RED ROCK	7.0	UNITED GAS PIPE L
-B J BROWN			RECEIVED:	06/23/82		JA: AR			
8239670		0308300003	103			PRICE BROWN #1 26780	CHISMVILLE	30.0	ARKANSAS LOUISIAN
-BRADHAM OIL CO			RECEIVED:	06/23/82		JA: AR			
8239732		0302710929	103			THREADGILL #7	VILLAGE	182.5	ARKANSAS LOUISIAN
-CHARLES E MCRAY DBA MCRAY AND ASSOC			RECEIVED:	06/23/82		JA: AR			
8239719		0304710203	103			SWISS FAMILY VINEYARDS #2-27C	OZARK FIELD	65.0	ARKANSAS WESTERN
8239720		0304710203	103			SWISS FAMILY VINEYARDS #2-27T	OZARK FIELD	240.0	ARKANSAS WESTERN
-COTTON PETROLEUM CORPORATION			RECEIVED:	06/23/82		JA: AR			
8239733		0302710787	103			MODISETTE #1	N HAYNESVILLE	360.0	ARKANSAS LOUISIAN
8239734		0302710751	103			SMITH ESTATE #1	N HAYNESVILLE	360.0	ARKANSAS-LOUISIAN
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	06/23/82		JA: AR			
8239634		0313110195	103			WENDALL CARRUTH #1	EWING	65.0	
-EXXON CORPORATION			RECEIVED:	06/23/82		JA: AR			
8239672		0308310083	103			CHISMVILLE GAS UNIT 2 #1L	CHISMVILLE	223.0	
8239671		0308310083	103			CHISMVILLE GAS UNIT 2 #1U	CHISMVILLE	1372.0	
8239635		0313110189	103			YADON GAS UNIT 1-C	BOONEVILLE	686.0	
8239636		0313110189	103			YADON GAS UNIT 1-T	BOONEVILLE	98.0	
-GETTY OIL COMPANY			RECEIVED:	06/23/82		JA: AR			
8239673		0308310052	103			HOLLAND 3-1	CHISMVILLE	73.0	ARKANSAS LOUISIAN
-GULF OIL CORPORATION			RECEIVED:	06/23/82		JA: AR			
8239703		0307110188	103			EUREKA BRICK & TILE #2-3	SPADRA	143.0	ARKANSAS LOUISIAN
-HADSON OHIO OIL COMPANY			RECEIVED:	06/23/82		JA: AR			
8239669		0312700000	103			BETHEL ESTATE #1-5	MANSFIELD	75.0	ARKANSAS LOUISIAN
8239704		0307110189	103			GARRETT 1-1	SPADRA	88.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP			RECEIVED:	06/23/82		JA: AR			
8239647		0313110216	103			PENDERGRASS #1-12C	EWING	275.0	ARKANSAS LOUISIAN
8239648		0313110216	103			PENDERGRASS 1-12T	EWING	275.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239649		0308310087		103		WHITECOTTON #1-32	DELAWARE	100.0	ARKANSAS LOUISIAN
-HAWKINS OIL & GAS INC				RECEIVED:	06/23/82	JA: AR			
8239675		0308310047		103		TRICKETT #1-9-C	CHISMVILLE	26.0	ARKANSAS LOUISIAN
8239676		0308310047		103		TRICKETT #1-9-T	CHISMVILLE	76.0	ARKANSAS LOUISIAN
-JIM L HANNA DBA HANNA	OIL AND GAS	C	RECEIVED:	06/23/82	JA: AR				
8239637		0313110201		103		AIRPORT '81 #1-C	MASSARD	300.0	
8239638		0313110201		103		AIRPORT '81 NO 1-T	MASSARD	700.0	
8239646		0313110116		103		C W SCOTT #1	GRAGG	0.0	ARKANSAS LOUISIAN
8239639		0313110159		103		CARSON #1	GRAGG	270.0	ARKANSAS LOUISIAN
8239642		0313110214		103		EVELYN "G" #1-C	GRAGG	180.0	
8239643		0313110214		103		EVELYN "G" #1-T	GRAGG	84.0	
8239644		0313110211		103		LANIE LEE #1-C	GREGG	15.0	
8239645		0313110211		103		LANIE LEE #1-T	GRAGG	300.0	
8239640		0313110183		103		MARY CATHERINE #1-C	GREGG	300.0	
8239641		0313110183		103		MARY CATHERINE #1-T	GRAGG	300.0	
8239674		0308310073		103		PIGEON CREEK #1-T	BOONEVILLE	0.0	
-JOHN C OXLEY				RECEIVED:	06/23/82	JA: AR			
8239658		0313110131		103		BAKER #1 - C	EWING	365.0	ARKANSAS OKLAHOMA
-JOHN D CARUTHERS JR				RECEIVED:	06/23/82	JA: AR			
8239694		0307310776		103		BURTON #1	CORNISH BRANCH	22.0	CRYSTAL OIL CO
8239695		0307310737		103		DUTY #1	CORNISH BRANCH	22.0	CRYSTAL OIL CO
-MORAN EXPLORATION INC				RECEIVED:	06/23/82	JA: AR			
8239681		0311510066		103		CARPENTER #1-10	KNOXVILLE	0.0	
-NORTHWEST MINERALS INC				RECEIVED:	06/23/82	JA: AR			
8239666		0314310048		103		BONNIE LAMBETH #1	HAZEL VALLEY	15.0	ARKANSAS WESTERN
8239668		0314310069		103		E C WARREN #2	HAZEL VALLEY	30.0	ARKANSAS WESTERN
8239667		0314310058		103		SAM THURMAN #1	HAZEL VALLEY	18.0	ARKANSAS WESTERN
8239665		0314310004		103		TYSON FOODS #1	HAZEL VALLEY	0.0	ARKANSAS WESTERN
8239664		0314310045		103		VAN DEUSEN #1	HAZEL VALLEY FIELD	50.0	
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/23/82	JA: AR			
8239677		0308310081		103		KREMERS #1-28	PRAIRIE VIEW	59.0	
-SAWYER ENERGY INC				RECEIVED:	06/23/82	JA: AR			
8239663		0309110277		103		LYELL-HAYDON #1	FOUKE	545.0	TEXAS EASTERN TRA
-SEECO INC				RECEIVED:	06/23/82	JA: AR			
8239739		0303310073		103		ALEXANDER 5-34-C	DYER	250.0	
8239741		0303310073		103		ALEXANDER 5-34-LT	DYER	200.0	
8239740		0303310073		103		ALEXANDER 5-34-UT	DYER	25.0	
8239705		0307110228		103		CAREY #1-4	OZONE	175.0	ARKANSAS WESTERN
8239707		0307110251		103		FARRINGTON #1-32-C	OZONE	0.0	ARKANSAS WESTERN
8239706		0307110251		103		FARRINGTON #1-32-T	OZONE	0.0	ARKANSAS WESTERN
8239708		0307110200		103		HARKREADER #2-14	UNION CITY	549.0	
8239723		0304710194		103		HIGGINS #1-24	ROCK CREEK	28.0	ARKANSAS WESTERN
8239724		0304710188		103		HILLARD-HOLT #1-8-C	ALTUS	0.0	ARKANSAS WESTERN
8239725		0304710188		103		HILLARD-HOLT #1-8-T	ALTUS	75.0	ARKANSAS WESTERN
8239726		0304710213		103		HOUSE #1-1-C	CECIL	0.0	ARKANSAS WESTERN
8239727		0304710213		103		HOUSE #1-1-T	CECIL	0.0	ARKANSAS WESTERN
8239728		0304710199		103		MING #1-30	WHITE OAK	75.0	ARKANSAS WESTERN
8239729		0304710201		103		OZARK TOWNSITE #1-36-C	WHITE OAK	65.0	ARKANSAS WESTERN
8239730		0304710201		103		OZARK TOWNSITE #1-36T	WHITE OAK	100.0	ARKANSAS WESTERN
8239742		0303310068		103		SWARM 1-4	DYER	85.0	
8239710		0307110263		103		WHARTON #1-31	BATSON	0.0	ARKANSAS WESTERN
8239731		0304710173		103		WILLIAMS #2-33	CECIL	60.0	
-STEPHENS PRODUCTION COMPANY				RECEIVED:	06/23/82	JA: AR			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239651		0313110188		103		ARNOLD BARTLETT #1	EXCELSIOR	182.5	
8239747		0303310080		103		B M LINCOLN #2 UT	HOLLIS LAKE	225.0	ARKANSAS LOUISIAN
8239746		0303310080		103		B M LINCOLN #2-C	HOLLIS LAKE	365.0	ARKANSAS LOUISIAN
8239748		0303310080		103		B M LINCOLN #2-LT	HOLLIS LAKE	456.0	ARKANSAS LOUISIAN
8239744		0303310087		103		GREIG ESTATE #4-T	HOLLIS LAKE	456.0	ARKANSAS LOUISIAN
8239743		0303310087		103		GREIG ESTATE #4C	HOLLIS LAKE	150.0	ARKANSAS LOUISIAN
8239652		0313110213		103		J W SMITH #1-36	EXCELSIOR	0.0	
8239709		0307110215		103		KAUFFELD #1-34	BATSON	100.0	ARKANSAS WESTERN
8239749		0303310088		103		ROBBINS-FINE #3	EWING	182.5	
8239653		0313110198		103		ROBERT WALLACE #1	EXCELSIOR	365.0	
8239745		0303310069		103		VIVIAN DENT #2	KIBLER WILLIAMS	365.0	ARKANSAS OKLAHOMA
-T L JAMES & COMPANY INC				RECEIVED:	06/23/82	JA: AR			
8239735		0313911417		103		FREEMAN #1 SERIAL #26,898	TUBAL FIELD	73.0	ARKANSAS LOUISIAN
-TEXAS OIL & GAS CORP				RECEIVED:	06/23/82	JA: AR			
8239696		0307310562		103		A S BARNETT #1	CORNISH BRANCH	14.0	CRYSTAL OIL CO
8239697		0307310599		103		A S BARNETT #2	CORNISH BRANCH	10.0	CRYSTAL OIL CO
8239698		0307310654		103		BOLINGER #1	CORNISH BRANCH	3.0	CRYSTAL OIL CO
8239699		0307310705		103		BOLINGER "A" #1	CORNISH BRANCH	10.0	CRYSTAL OIL CO
8239700		0307310663		103		CORNISH #1	CORNISH BRANCH	44.0	CRYSTAL OIL CO
8239654		0313110163		103		HEWETT #1	EWING	75.0	ARKANSAS LOUISIAN
8239655		0313110155		103		INGRAM #1	EWING	150.0	ARKANSAS LOUISIAN
8239656		0313110192		103		JEFFREY "A" #1-C	MASSARD	275.0	
8239657		0313110192		103		JEFFREY "A" #1-T	MASSARD	75.0	
8239715		0307110206		103		KING #1	CLARKSVILLE	300.0	ARKANSAS LOUISIAN
8239711		0307110206		103		KING #1-C	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239712		0307110206		103		KING #1-T	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239721		0314710186		103		MCDONALD "D" #2	VESTA	300.0	
8239658		0313110200		103		WARD "J" #1	MASSARD	18.0	
8239659		0313110185		103		WOODS "C" #1	BONANZA	108.0	
8239722		0304710198		103		YOUNG "K" #1	AETNA	1400.0	
8239713		0307110229		103		ZINC #1-C	SPADRA	157.0	
8239714		0307110229		103		ZINC #1-T	SPADRA	157.0	
-THOMAS C MUELLER				RECEIVED:	06/23/82	JA: AR			
8239682		0311510095		103		B M HUGGINS #1-3	DOVER	70.0	
-TOWNER PETROLEUM CO				RECEIVED:	06/23/82	JA: AR			
8239661		0313110190		103		HINKLE #28-1	GRAGG	0.0	ARKANSAS LOUISIAN
8239684		0311510098		103		NORDIN #6-1-T	KNOXVILLE	0.0	ARKANSAS LOUISIAN
8239683		0311510098		103		NORDIN 6-1-C	KNOXVILLE	102.0	ARKANSAS LOUISIAN
8239685		0311510119		103		SHULL #18-1-C	DOVER	0.0	ARKANSAS LOUISIAN
8239686		0311510119		103		SHULL #18-1-T	DOVER	0.0	ARKANSAS LOUISIAN
8239662		0313110168		103		SMITH #32-1	MASSARD	160.0	ARKANSAS OKLAHOMA
8239679		0308310077		103		WHITE #1-1-T	CHISMVILLE	0.0	ARKANSAS LOUISIAN
8239678		0308310077		103		WHITE #1-1C	CHISMVILLE	0.0	ARKANSAS LOUISIAN
8239687		0311510118		103		WORLEY #11-1-C	KNOXVILLE	0.0	ARKANSAS LOUISIAN
8239688		0311510118		103		WORLEY #11-1-T	KNOXVILLE	0.0	ARKANSAS LOUISIAN
-TRIGG DRILLING COMPANY INC				RECEIVED:	06/23/82	JA: AR			
8239689		0311510127		103		HUTSON #1	KNOXVILLE	545.0	ARKANSAS LOUISIAN
8239690		0311510124		103		WHORTON #1	KNOXVILLE	273.0	ARKANSAS LOUISIAN
-TXO PRODUCTION CORP				RECEIVED:	06/23/82	JA: AR			
8239660		0313110210		103		HAMILTON "C" #1	URSULA	105.0	
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	06/23/82	JA: AR			
8239691		0311510099		103		MARTIN #2	KNOXVILLE	182.0	ARKANSAS LOUISIAN
-WEISER-BROWN OIL COMPANY				RECEIVED:	06/23/82	JA: AR			

JD.NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239737		0302710865		103		CRUMPLER #3	VILLAGE	150.0	ARKANSAS LOUISIAN
8239738		0302710910		103		WALTERS #1	VILLAGE	180.0	ARKANSAS LOUISIAN
-WHITMAR EXPLORATION CO				RECEIVED:	06/23/82	JA: AR			
8239692		0311510116		103		ORVILLE JOHNSON #1-7	KNOXVILLE	300.0	ARKANSAS LOUISIAN
8239693		0311510115		103		RENTFRO #1-28	DOVER	200.0	ARKANSAS LOUISIAN
MISSISSIPPI OIL & GAS BOARD									
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	01/04/82	JA: MS			
8239772	104-81527(4)	2309520321		102-2		C P COGGIN #1	COMPENNA CREEK	422.0	TEXAS EASTERN TRA
8239770	104-81527(2)	2309520318		102-2		H J MURFF #2	COMPENNA CREEK	410.0	TEXAS EASTERN TRA
8239771	104-81527(3)	2309520322		102-2		H J MURFF #3	COMPENNA CREEK	84.0	TEXAS EASTERN TRA
MONTANA BOARD OF OIL & GAS CONSERVATION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	06/24/82	JA: MT			
8239820	6-81-117	2510121991		102-2		FLAGE #1-8	WILDCAT	54.0	
8239816	681-118	2510121920		102-2		PETERSON #1	WILDCAT	54.0	
8239817	6-81-119	2510121992		102-2		SNUFFER #1-8	WILDCAT	54.0	
-BWAB INC				RECEIVED:	06/24/82	JA: MT			
8239819	7-81-125	2508321475		102-2		HENDERSON #4-22	CANAL	7.5	MONTANA DAKOTA UT
8239822	7-81-124	2508321345		102-2		JENSEN #21-43	SIDNEY	7.5	MONTANA DAKOTA UT
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	06/24/82	JA: MT			
8239824	6-81-120	2509121290		102-2		HJORT 3-3	RESERVE SOUTH	30.0	TRUE OIL CO
8239825	6-81-121	2509121291		102-2		LAND 9-20	MEDICINE LAKE WEST	35.0	TRUE OIL CO
-SOUTHLAND ROYALTY CO				RECEIVED:	06/24/82	JA: MT			
8239818	7-81-123	2508321411		102-4		ALICE PREVOST #2-30	THREE BUTTES	4.0	MGPC INC
8239821	7-81-122	2508321446		102-4		ULRIC PREVOST #1-25	THREE BUTTES	3.0	MGPC INC
-TOPAZ OIL & GAS INC				RECEIVED:	06/24/82	JA: MT			
8239823	7-81-126	2507121734		103		TOPAZ OIL & GAS INC #1 CONLON	BOWDOIN	30.0	MONTANA DAKOTA UT
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC				RECEIVED:	06/23/82	JA: NY			
8239780	3448	3102917034		103		GRUPP UNIT #1 (1526)	EVANS	0.0	NATIONAL FUEL GAS
8239779	3452	3102917044		103		GRUPP UNIT #2 (1527)	EVANS	10.0	NATIONAL FUEL GAS
-ANGELA P HOPKINS				RECEIVED:	06/23/82	JA: NY			
8239782	3160	3101316688		103		HOPKINS-CARL HALL #OM4152	LAKESHORE	0.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/23/82	JA: NY			
8239777	3465	3101316383		103		H PERSONS #1	RIPLEY-MINA	22.0	COLUMBIA GAS TRAN
8239776	3463	3101316510		103		N REED #4	RIPLEY-MINA	22.0	COLUMBIA GAS TRAN
8239814	2786	3101316867		107-TF		W JOSEPHSON #1	GERRY	15.4	COLUMBIA GAS TRAN
8239815	2785	3101316867		103		W JOSEPHSON #1	GERRY	15.4	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC				RECEIVED:	06/23/82	JA: NY			
8239809	2802	3101315867		107-TF		HAMMER MILL #1	LAKESHORE	12.0	COLUMBIA GAS TRAN
8239810	2803	3101315868		107-TF		HAMMERMILL #2	LAKESHORE	12.0	COLUMBIA GAS TRAN
8239811	2804	3101315984		107-TF		W HARRIS #1	MEDINA - LAKE PLAIN	22.0	NATIONAL FUEL GAS
-CHAUTAUQUA NATURAL GAS CO INC				RECEIVED:	06/23/82	JA: NY			
8239808	2823	3101315457		107-TF		COLGROVE WARNER #1-A	LAKESHORE	20.0	COLUMBIA GAS TRAN
-CONSOLIDATED EXPLORATION & GATHERIN				RECEIVED:	06/23/82	JA: NY			
8239800	2491	3102916212		102-2		DISTEFANO UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8239799	2490	3102916301		102-2		LINDSAY UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
-CUMBERLAND OIL CORP				RECEIVED:	06/23/82	JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239797	2815	3101316836		107-TF		LYLE SAGER #2	LAKESHORE	0.0	NATIONAL FUEL GAS
8239795	2797	3101316939		107-TF		RICHTER #6	LAKESHORE	20.0	NATIONAL FUEL GAS
-J B C CORP				RECEIVED:	06/23/82	JA: NY			
8239794		3101316430		107-TF		SELLSTROM & BARGAR #3	LAKE SHORE	12.0	NATIONAL FUEL GAS
-J M RESOURCES				RECEIVED:	06/23/82	JA: NY			
8239796	2798	3101314326		107-TF		LEPP #4	LAKESHORE	11.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	06/23/82	JA: NY			
8239804	3492	3100916964		103		ALLEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239801	3490	3100916417		103		CARLTON & JOAN STONE #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239807	3476	3100916420		103		EVANS #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239774	3479	3100916412		103		EVANS #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239806	3470	3100916411		103		GOOCHEE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239805	3472	3100916406		103		GOOCHEE #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239775	3480	3100916405		103		NAMLIK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239773	3474	3100915375		103		STONE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239802	3480	3100916864		103		VICK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239803	3484	3100916425		103		WILLIAMS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	06/23/82	JA: NY			
8239778	3462	3102917251		103		BOLDT #1 #02418	BOLDT #1	0.0	NATIONAL FUEL GAS
-RICHARDSON PETROLEUM CORP				RECEIVED:	06/23/82	JA: NY			
8239783	3238	3100316856		103		HESELTON #15	INDEPENDENCE	10.0	NATIONAL FUEL GAS
-SHARON RESOURCES INC				RECEIVED:	06/23/82	JA: NY			
8239789	1445	3112115783		102-2		A CODD #1	SHELDON	10.5	COLUMBIA GAS TRAN
8239793	1438	3112115387		102-2		BARTZ #1	SHELDON	17.5	COLUMBIA GAS TRAN
8239786	1447	3112115852		102-2		G METZGER ET AL #1	SHELDON	12.0	COLUMBIA GAS TRAN
8239788	1446	3112115735		102-2		N PERRY #1	SHELDON	28.0	COLUMBIA GAS TRAN
8239791	1440	3112115386		102-2		OCHAL #1	SHELDON	14.0	COLUMBIA GAS TRAN
8239785	1442	3112115691		102-2		R KIRSCH #1	SHELDON	15.8	COLUMBIA GAS TRAN
8239787	1437	3112115384		102-2		REISDORF #1	SHELDON	10.5	COLUMBIA GAS TRAN
8239790	1444	3112115769		102-2		ROBERT PINGREY #1	SHELDON	15.5	COLUMBIA GAS TRAN
8239792	1439	3112115385		102-2		W KIRSCH #1	SHELDON	11.0	COLUMBIA GAS TRAN
-SHAWNEE EXPLORATION INC				RECEIVED:	06/23/82	JA: NY			
8239798	1578	3102916447		102-2		GERNATT UNIT #1	BRANT	15.0	SCG GAS QUEST INC
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	06/23/82	JA: NY			
8239812	2788	3101316897		107-TF		OPTIMIST CLUB #1	GERRY	20.0	COLUMBIA GAS TRAN
8239813	2792	3101316896		107-TF		R WILCOX #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	06/23/82	JA: NY			
8239781	3166	3101315682		103		EDWARD TERRY #1	GERRY	20.0	COLUMBIA GAS TRAN
-WEIL RESOURCES				RECEIVED:	06/23/82	JA: NY			
8239784	3370	3102915658		103		JULIANA #2	HAMBURG	10.0	NATIONAL FUEL GAS

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WEST VIRGINIA DEPARTMENT OF MINES

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-CABOT OIL & GAS CORP				RECEIVED:	06/24/82	JA: WV			
8239895		4703901775		107-DV		BERRY HILLS 1-1115	JEFFERSON	0.0	TENNESSEE GAS PIP
8239875		4700500924		107-DV		CASSINGHAM #13-255	SCOTT	2.1	TENNESSEE GAS PIP
8239897		4709900869		107-DV		CLYDE MILLER 1-873	STONEWALL	11.0	TENNESSEE GAS PIP
8239862		4704301405		107-DV		F F STARCHER 14-1210	HARTS CREEK	0.0	TENNESSEE GAS PIP
8239861		4704301409		107-DV		F F STARCHER 15-1218	HARTS CREEK	0.0	TENNESSEE GAS PIP
8239865		4704301110		107-DV		F F STARCHER 4-877	HARTS CREEK	5.8	TENNESSEE GAS PIP
8239867		4704500166		107-DV		FANNIE WHITE 1-738	CHAPMANVILLE	2.5	TENNESSEE GAS PIP
8239899		4709901288		107-DV		HOARD BALDWIN 59-1101	STONEWALL	0.0	TENNESSEE GAS PIP
8239898		4709901273		107-DV		HOARD-BALDWIN 56-1094	STONEWALL	0.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239864		4704301168		107-DV		ISLAND CREEK 14-925	HARTS CREEK	5.8	TENNESSEE GAS PIP
8239863		4704301171		107-DV		ISLAND CREEK 15-926	HARTS CREEK	1.8	TENNESSEE GAS PIP
8239876		4704500009		107-DV		LAWSON HEIRS "B" 3-1181	CHAPMANVILLE	3.2	TENNESSEE GAS PIP
8239881		4700500842		107-DV		LENNING ESTATE 2-315	PEYTONA	0.3	TENNESSEE GAS PIP
8239882		4700500505		107-DV		LENNING ESTATE 6-615	PEYTONA	2.5	TENNESSEE GAS PIP
8239873		4700501009		107-DV		LITTLE COAL B 8-306	SCOTT	10.7	TENNESSEE GAS PIP
8239872		4700500673		107-DV		LITTLE COAL 29-688	WASHINGTON	0.0	TENNESSEE GAS PIP
8239871		4700500675		107-DP		LITTLE COAL 31-690	SCOTT	0.0	TENNESSEE GAS PIP
8239869		4700500676		107-DV		LITTLE COAL 32-691	WASHINGTON	3.6	TENNESSEE GAS PIP
8239874		4700500808		107-DV		LITTLE COAL 38-778	WASHINGTON	4.3	TENNESSEE GAS PIP
8239870		4700500809		107-DV		LITTLE COAL 39-779	WASHINGTON	2.8	TENNESSEE GAS PIP
8239857		4704300954		107-DV		PATTIE PORTER 8-810	LAUREL HILL	9.1	TENNESSEE GAS PIP
8239883		4700500371		107-DV		PEYTONA COAL LAND #31-474	SHERMAN	16.9	TENNESSEE GAS PIP
8239880		4700500847		107-DV		PEYTONA COAL 16-323	SHERMAN	3.0	TENNESSEE GAS PIP
8239879		4700500851		107-DV		PEYTONA COAL 17-336	SHERMAN	4.5	TENNESSEE GAS PIP
8239877		4700500875		107-DP		PEYTONA COAL 18-354	SHERMAN	7.1	TENNESSEE GAS PIP
8239878		4700500862		107-DP		PEYTONA COAL 19-373	SHERMAN	24.8	TENNESSEE GAS PIP
8239860		4709900359		107-DV		R & T P MAYNARD 1-708	GRANT	7.2	TENNESSEE GAS PIP
8239859		4709900417		107-DV		R & T P MAYNARD 2-739	GRANT	11.2	TENNESSEE GAS PIP
8239858		4709900485		107-DV		R & T P MAYNARD 6-760	GRANT	2.1	TENNESSEE GAS PIP
8239896		4703901895		107-DV		ROSA LAWSON 1-1049	WASHINGTON	12.7	TENNESSEE GAS PIP
8239894		4704301186		107-DV		ROY L MALLORY 1-956	WASHINGTON	0.0	TENNESSEE GAS PIP
8239866		4704300695		107-DV		STEIN & MCCOMAS 2-752	HARTS CREEK	6.5	TENNESSEE GAS PIP
8239884		4700500044		107-DV		V VANDELINDE 1-396	SCOTT	0.7	TENNESSEE GAS PIP
8239868		4704300183		107-DV		W M ADKINS 1-450	JEFFERSON	0.0	TENNESSEE GAS PIP
8239885		4709900043		107-DV		WILSON COAL #8-525	LINCOLN	6.2	TENNESSEE GAS PIP
8239892		4709900341		107-DV		WILSON COAL 37-695	GRANT	2.3	TENNESSEE GAS PIP
8239893		4709900342		107-DV		WILSON COAL 38-696	GRANT	9.0	TENNESSEE GAS PIP
8239891		4709900490		107-DV		WILSON COAL 45-766	GRANT	45.5	TENNESSEE GAS PIP
8239890		4709900561		107-DV		WILSON COAL 48-772	LINCOLN	4.3	TENNESSEE GAS PIP
8239889		4709900598		107-DV		WILSON COAL 50-782	LINCOLN	17.5	TENNESSEE GAS PIP
8239888		4709900961		107-DV		WILSON COAL 72-923	LINCOLN	10.0	TENNESSEE GAS PIP
8239887		4709901274		107-DV		WILSON COAL 76-936	LINCOLN	3.5	TENNESSEE GAS PIP
8239886		4709901490		107-DV		WILSON COAL 87-1196	LINCOLN	20.5	TENNESSEE GAS PIP

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

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-AMERICAN RESOURCES MANAGEMENT CORP RECEIVED: 06/22/82 JA: CO 1

8239765	CD0147-82	0510307302	108	GOVERNMENT #1	1092 FNL 1059 FWL SEC	16.6	WESTERN SLOPE

-COSEKA RESOURCES (USA) LIMITED RECEIVED: 06/22/82 JA: CO 1

8239768	CD0076-82	0510308713	107-TF	FEDERAL #15-30-4-103	WILDCAT	24.3	SOUTHWEST GAS COR

-EQUITY OIL COMPANY RECEIVED: 06/22/82 JA: CO 1

8239767	CD0058-82	0510300000	107-TF	SULPHUR CREEK #1	RIO BLANCO UNIT	70.0	COLORADO INTERSTA

-GETTY OIL COMPANY RECEIVED: 06/22/82 JA: CO 1

8239762	CD0183-82	0506706276	107-TF	UTE "E" #2	IGNACIO BLANCO MESAVE	75.0	NORTHWEST PIPELIN
8239761	CD0185-82	0506706413	107-TF	UTE "E" #4	IGNACIO BLANCO DAKOTA	90.0	NORTHWEST PIPELIN

-MESA PETROLEUM CO RECEIVED: 06/22/82 JA: CO 1

8239764	CD0370-81	0512506568	102-2	ECKLEY FEDERAL 1 #1	ECKLEY	734.0	CITIES SERVICE GA
8239763	CD0369-81	0512506566	102-2	FEDERAL 6 #1	ECKLEY	710.0	CITIES SERVICE GA

-MONSANTO COMPANY RECEIVED: 06/22/82 JA: CO 1

8239769	CD0174-82	0506705280	108	UTE #1	IGNACIO BLANCO	2.6	PEOPLES NATURAL G

-NORTHWEST PIPELINE CORPORATION RECEIVED: 06/22/82 JA: CO 1

8239751	CD0091-82PB	0506700000	108-PB	COLORADO 32-8 #2	MESAVERDE	0.0	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239755	CD0190-82PR	0506700080		108-PB		COLORADO 32-8 #2	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-TWIN ARROW INC				RECEIVED:	06/22/82	JA: CO 1			
8239756	CD0189-81	0510308593		103		C & K 2-14	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239752	CD0193-81	0510308233		103		CONTINENTAL 2-9	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239759	CD0243-81	0510308215		107-TF		CONTINENTAL 3-29	CATHEDRAL	6.0	NORTHWEST PIPELIN
8239754	CD0194-81	0510308567		103		COORS 2-15X	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239758	CD0129-82	0510308823		107-TF		COORS 3-11	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239753	CD0128-82	0510308673		107-TF		COORS 8-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239757	CD0166-82	0510308682		107-TF		TERRA 1-27X	CATHEDRAL	0.0	NORTHWEST PIPELIN
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/22/82	JA: UT 1			
8239766	UD0422-81	4304730709		107-TF		LOVE UNIT B1-10	WILDCAT	356.0	MESA PIPELINE
-GETTY OIL COMPANY				RECEIVED:	06/22/82	JA: UT 1			
8239760	UD0299-81	4300705056		108		PETERS POINT #3	PETERS POINT	18.0	UINTA PIPELINE CO
-ODEGARD RESOURCES INC				RECEIVED:	06/22/82	JA: UT 1			
8239750	UD 0163-82	4301930853		103		WESTWATER UNIT #3	WESTWATER	125.0	NORTHWEST PIPELIN
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-MIDLANDS GAS CORPORATION				RECEIVED:	06/24/82	JA: MT 5			
8239829	M473-1	2507121264		108		FEDERAL 1 1742	WILDCAT	22.0	KANSAS-NEBRASKA N
8239830	M 475-1	2507121484		108		FEDERAL 1 2161	WILDCAT	22.0	KANSAS-NEBRASKA N
8239828	M472-1	2507121262		108		FEDERAL 1 2251	WILDCAT	22.0	KANSAS-NEBRASKA N
8239838	M 525-1	2507121667		108		FEDERAL 1 2812	UNNAMED	22.0	KANSAS-NEBRASKA N
8239837	M 524-1	2507121668		108		FEDERAL 1 3412	UNNAMED	22.0	KANSAS-NEBRASKA N
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/24/82	JA: MT 5			
8239839	M 527-1	2510121822		103		FEDERAL PUBCO A #13-35	ARCH APEX - BOW ISLAN	100.0	MONTANA POWER CO
-BWAB INC				RECEIVED:	06/24/82	JA: ND 5			
8239848	ND 552-1	3305300802		102-2		BN #11-31	MONDAK	10.0	MONTANA DAKOTA UT
-GULF OIL CORPORATION				RECEIVED:	06/24/82	JA: ND 5			
8239846	ND 545-1	3305301242		102-2		BOB CREEK FEDERAL 1-13-3B	LONE BUTTE	9.0	
8239845	ND 544-1	3305301229		102-2		MORMON BUTTE FEDERAL 1-25-3C	LONE BUTTE	286.0	
-TENNECO OIL COMPANY				RECEIVED:	06/24/82	JA: ND 5			
8239856	ND 561-1	3300700635		102-2		MOHRLE 1-35	BIG STICK	20.0	WESTERN GAS PROCE
-AMOCO PRODUCTION CO				RECEIVED:	06/24/82	JA: WY 5			
8239854	W 559-1	4900720675		102-2		COAL GULCH UNIT "J" #1	COAL GULCH - MESAVERD	104.0	CITIES SERVICE GA
8239855	W 560-1	4900720675		107-TF		COAL GULCH UNIT "J" #1	COAL GULCH-MESAVERDE	104.0	CITIES SERVICE GA
-ANADARKO PRODUCTION COMPANY				RECEIVED:	06/24/82	JA: WY 5			
8239847	W 546-1	4903721462		102-4		PINE CANYON FEDERAL "A" 1-2	PINE CANYON	145.0	PANHANDLE EASTERN
-BELCO PETROLEUM CORPORATION				RECEIVED:	06/24/82	JA: WY 5			
8239842	W 536-1	4903520618		102-4		CHAMBERS FEDERAL 2-17	STAR CORRAL	0.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	06/24/82	JA: WY 5			
8239833	W 496-1	4904120302		102-4		PAINTER RESERVOIR UNIT 12-6A	PAINTER RESERVOIR	187.0	NORTHERN NATURAL
8239834	W 497-1	4904127600		102-4		PAINTER RESERVOIR UNIT 23-6A	PAINTER RESERVOIR	237.0	NORTHERN NATURAL
8239832	W 495-1	4904120231		102-4		PAINTER RESERVOIR UNIT 24-30B	PAINTER RESERVOIR	2281.0	NORTHERN NATURAL
8239831	W 494-1	4904120334		102-4		PAINTER RESERVOIR UNIT 32-6A	PAINTER RESERVOIR	447.0	NORTHERN NATURAL
8239835	W 498-1	4904120307		102-4		PAINTER RESERVOIR UNIT 33-30B	PAINTER RESERVOIR	290.0	NORTHERN NATURAL
-CITIES SERVICE COMPANY				RECEIVED:	06/24/82	JA: WY 5			
8239853	W 558-1	4900525804		103		FEDERAL "S" #1	BRIDGE DRAW	8.7	
-DIETRICH RESOURCES CORP				RECEIVED:	06/24/82	JA: WY 5			
8239849	W 554-1	4903721743		103		FEDERAL 8-34	HIAWATHA-SUGAR LOAF	0.0	MOUNTAIN FUEL SUP
-DOUBLE EAGLE PETROLEUM & MINING CO				RECEIVED:	06/24/82	JA: WY 5			
8239852	W 557-1	4902521333		102-4		DOUBLE EAGLE GRAHAM UNIT #2 FEDERAL	FRENCHIE DRAW	200.0	KANSAS NEBRASKA N
-EXXON CORPORATION				RECEIVED:	06/24/82	JA: WY 5			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239844	W 543-1	4903520596		107-DP		LAKE RIDGE UNIT #1	WILDCAT	877.0	.
-HPC INC				RECEIVED:	06/24/82	JA: WY 5			
*8239843	W 542-1	4903721685		102-2		TRITON UNIT #2	TRITON	440.0	PANHANDLE EASTERN
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	06/24/82	JA: WY 5			
8239827	W412-1	4904521549		102-4		BRUCE FEDERAL #1-4	WEST TODD	22.6	PHILLIPS PETROLEU
8239826	W411-1	4904521542		102-4		CITIES FEDERAL #1-8	WEST TODD	32.5	PHILLIPS PETROLEU
-SNYDER OIL CO				RECEIVED:	06/24/82	JA: WY 5			
8239851	W 556-1	4900720695		107-TF		MARATHON FEDERAL 1C-32-15-92	BLUE GAP	150.0	NORTHWEST PIPELIN
8239850	W 555-1	4900720691		107-TF		SANTA FE FEDERAL 1A-29-14-92	ROBBERS GULCH	140.0	NORTHWEST PIPELIN
8239836	W 515-1	4900720694		107-TF		SOCO PUCKETT FEDERAL 1C-11-14-92	ROBBERS GULCH FIELD	140.0	NORTHWEST PIPELIN
-TOM BROWN INC				RECEIVED:	06/24/82	JA: WY 5			
8239841	W 529-1	4901321221		102-4		TRIBAL # 24-23	MUDDY RIDGE	383.2	MONTANA DAKOTA UT
8239840	W 528-1	4901321220		102-4		TRIBAL # 30-21	MUDDY RIDGE	635.1	MONTANA-DAKOTA UT

OTHER PURCHASERS VOLUME NO :688

8239843 MICHIGAN WISCONSIN P L CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19108 Filed 7–14–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	06/24/82		JA: LA			
8239927	82-0388	1711321077	103			FIRST NATIONAL FARMS #2	RICEVILLE	0.0	CONOCO INC
-AMOCO PRODUCTION CO			RECEIVED:	06/24/82		JA: LA			
8239913	82-0613	1702321314	103			MIAMI CORPORATION #33	SOUTH PECAN LAKE	365.0	COLUMBIA GAS TRAN
8240014	82-2081	1706320055	107-DP			NORA KING ET AL #1 16,700 TUSC RA	LOCKHART CROSSING	3650.0	SOUTHERN NATURAL
8240013	82-2003	1707720220	107-DP			REX CALLICOTT #1	SOUTH RAVENSWOOD	300.0	COLUMBIA GAS TRAN
8240015	82-2090	1703121323	107-TF			W M POLLOCK #1	BENSON	547.0	SOUTHERN NATURAL
-BENGAL OIL & GAS INC			RECEIVED:	06/24/82		JA: LA			
8239972	82-0533	1707321847	103			MYHRE #3	MONROE	18.0	UNITED GAS PIPE L
8239978	82-0534	1707321848	103			MYHRE #5	MONROE	18.0	UNITED GAS PIPELI
-BETHLAN PRODUCTION CORP			RECEIVED:	06/24/82		JA: LA			
8239940	82-0967	1707321646	108			EAST OUACHITA RECREATION DIST #3	MONROE GAS FIELD	6.1	UNITED GAS PIPE L
8239939	82-0968	1707321651	108			EAST OUACHITA RECREATION DIST #4	MONROE GAS	6.1	UNITED GAS PIPE L
8239915	82-0950	1707321551	108			GRANT A #1	MONROE GAS FIELD	10.0	GAS TRANSPORTATIO
8239916	82-0951	1707321552	108			GRANT A #2	MONROE GAS FIELD	14.5	GAS TRANSPORTATIO
8239917	82-0952	1707321553	108			GRANT A #3	MONROE GAS FIELD	14.5	GAS TRANSPORTATIO
8239918	82-0953	1707321570	108			GRANT A #5	MONROE GAS FIELD	5.2	GAS TRANSPORTATIO
8239900	82-0954	1707321571	108			GRANT A #6	MONROE GAS FIELD	16.1	GAS TRANSPORTATIO
8239991	82-0858	1706721681	103			J 2 RANCH B #3	MONROE GAS FIELD	47.5	GEORGIA PACIFIC C
8239992	82-0859	1706721682	103			J 2 RANCH B #4	MONROE GAS FIELD	38.3	GEORGIA PACIFIC C
8239901	82-0955	1707321309	108			JEFFERSON ESTATE #1	MONROE GAS FIELD	20.5	MID LOUISIANA GAS
8239902	82-0956	1707321399	108			OUACHITA PARISH SCHOOL BOARD #1	MONROE GAS FIELD	10.0	UNITED GAS PIPE L
-BLUE CREEK RESOURCES INC			RECEIVED:	06/24/82		JA: LA			
8239914	82-0638	1703121398	103			JAMES MCMULLEN & W G WEMPLE #1	RED RIVER BULL BAYOU	100.0	LOUISIANA INTRAST
-CHEVRON U S A INC			RECEIVED:	06/24/82		JA: LA			
8240017	82-2818	1707720275	107-DP			J V ROUGON #1 19100 TUSC RA SUX	PROFIT ISLAND	960.0	TEXAS EASTERN GAS
8240016	82-2817	1707720274	107-DP			J V ROUGON #2 19100 TUSC RA SUFF	PROFIT ISLAND	3342.0	TEXAS EASTERN TRA
8239936	82-2979	1707720273	107-DP			W WRIGHT #2 19800 TUSC RB SUD	FALSE RIVER	3821.0	TEXAS EASTERN GAS
-CONOCO INC			RECEIVED:	06/24/82		JA: LA			
8239933	82-0628	1709920891	103			CONOCO FEE A #28	ST MARTINVILLE	11.0	INTRASTATE PIPELI
-DAVIS OIL COMPANY			RECEIVED:	06/24/82		JA: LA			
8239935	82-2829	1710121258	107-DP			SL 5097 #4	LITTLE BAY	0.0	TEXAS EASTERN TRA
-EXCHANGE OIL & GAS CORPORATION			RECEIVED:	06/24/82		JA: LA			
8239982	82-2998	1770520113	107-DP			STATE LEASE 3763 #12	VERMILION BLOCK 16	365.0	TRANSCONTINENTAL
-FRANKS & PETROFUNDS INC			RECEIVED:	06/24/82		JA: LA			
8240011	82-1421	1701320128	107-TF			SMELLY #1 HOSS SU N	DRISCOLL	385.0	UNITED GAS PIPE L
-GAS TRANSPORTATION CORPORATION			RECEIVED:	06/24/82		JA: LA			
8239996	82-0700	1707321734	108			COLEMAN #1	MONROE GAS FIELD	0.0	INTERNATIONAL MIN
-GETTY OIL COMPANY			RECEIVED:	06/24/82		JA: LA			
8239932	82-0629	1700120739	103			GUENO #1	BRANCH	310.0	MONTEREY PIPELINE
-GLEN D LOE			RECEIVED:	06/24/82		JA: LA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239998	82-2996	1712720995		102-4		LOUISIANA PACIFIC X #2 SN 170474	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-HADDOX PETROLEUM CORP				RECEIVED:	06/24/82	JA: LA			
8240001	82-0935	1711121454		108		MEDLIN #1	MONROE	3.1	IMC PIPELINE CO I
-HERBST RESOURCES INC				RECEIVED:	06/24/82	JA: LA			
8239950	82-0685	1707320186		108		MILLER #3	MONROE GAS ROCK	8.0	MID LOUISIANA GAS
8239947	82-0686	1707320713		108		MILLER #5	MONROE GAS ROCK	383.0	IMC PIPELINE CO I
8239946	82-0687	1707320717		108		MILLER #7	MONROE GAS ROCK	8.0	MID LOUISIANA GAS
-HOGAN EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239979	82-0635	1702120747		103		MANVILLE 774 #1	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-IMC EXPLORATION COMPANY				RECEIVED:	06/24/82	JA: LA			
8239975	82-0542	1707321855		103		MYHRE #5	MONROE	18.0	UNITED GAS PIPELI
8239989	82-0888	1706721663		108		TENSAS DELTA #F-339	MONROE	4.0	IMC PIPELINE CO I
8239905	82-0889	1706721658		108		TENSAS DELTA #F-340	MONROE	6.0	GEORGIA PACIFIC C
8239904	82-0890	1706721659		108		TENSAS DELTA #F-341	MONROE	6.0	GEORGIA PACIFIC C
8239928	82-0891	1706721657		108		TENSAS DELTA #F-343	MONROE	7.0	IMC PIPELINE CO I
-JIM V HADDOX				RECEIVED:	06/24/82	JA: LA			
8239988	82-0934	1711121426		108		SIMPSON #1	MONROE	3.2	IMC PIPELINE CO I
-JOHN O CLAY EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239910	82-0862	1702120587		103		L DUNN #1 VUA	BANKS SPRINGS	55.0	LOUISIANA INTRAST
-KERR-MCGEE CORPORATION				RECEIVED:	06/24/82	JA: LA			
8239911	82-0644	1772620224		103		S L 1997 #14	BRETON SOUND BLOCK 20	431.0	SOUTHERN NATURAL
-L & L ENERGYS INC				RECEIVED:	06/24/82	JA: LA			
8239977	82-0538	1701722274		108		MUSLOW #6 SERIAL 156168	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
8239976	82-0537	1701722188		108		MUSLOW #7 SERIAL #155089	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
-LANKFORD & NANCE				RECEIVED:	06/24/82	JA: LA			
8240006	82-0964	1711123188		108		ARRANT #1	MONROE	13.0	TEXAS GAS TRANSMI
8239971	82-0565	1711123233		108		FROST #11	MONROE	5.0	TEXAS GAS TRANSMI
8240005	82-0965	1711123216		108		FROST #13	MONROE	12.0	TEXAS GAS TRANSMI
8240000	82-0963	1711123160		108		HAILE #3	MONROE	14.0	TEXAS GAS TRANSMI
8239974	82-0555	1711123161		108		HAILE #5	MONROE	10.0	TEXAS GAS TRANSMI
8240004	82-0966	1711123277		108		IRMA HAILE #1	MONROE	14.0	TEXAS GAS TRANSMI
-LINVILLE NATURAL GAS CO INC				RECEIVED:	06/24/82	JA: LA			
8239985	82-0912	1711100994		108		HUMBLE UNIT #2	MONROE	3.0	IMC PIPELINE CO I
8239903	82-0913	1711100525		108		HUMBLE UNIT #5	MONROE	4.0	IMC PIPELINE CO I
8239956	82-0896	1711100515		108		LINVILLE SCHOOL #1	MONROE	7.0	IMC PIPELINE CO I
8239986	82-0897	1711121331		108		RABUN #1	MONROE	2.0	IMC PIPELINE CO I
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	06/24/82	JA: LA			
8239981	82-2997	1712120130		107-DP		JAMES B DAIGLE #2 SN 173935	FALSE RIVER	730.0	SUGAR BOWL GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239908	82-0405	1703121248		103		ATKINS #1	LOGANSPORT	1095.0	TENNESSEE GAS PIP
8239926	82-0325	1703121242		103		CONNIE ALLEN #1	LOGANSPORT	110.0	SOUTHERN NATURAL
8239951	82-0681	1703121210		103		HARRISON #3 U HOSS RA SUS	BELLE BOWER	375.0	ARKANSAS LOUISIAN
8239948	82-0682	1703121210		103		HARRISON #3-D	BELLE BOWER	60.0	ARKANSAS LOUISIAN
8239949	82-0683	1703121384		103		HORN #7	LOGANSPORT	87.0	SOUTHERN NATURAL
8239919	82-0399	1703120719		103		RAMSEY #5	LOGANSPORT	38.0	TENNESSEE GAS PIP
8239920	82-0404	1703121373		103		STELL #1	LOGANSPORT	78.0	SOUTHERN NATURAL
8240010	82-0275	1703121230		103		WOODROW HORN #1	LOGANSPORT	365.0	SOUTHERN NATURAL
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/24/82	JA: LA			
8239987	82-0932	1707321434		108		GTC-MLGC FEE GAS #14	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240012	82-1508	1707300000		108		MLGC FEE GAS #102	MONROE GAS FIELD	35.6	MID LOUISIANA GAS
8239943	82-0606	1711123399		103		MLGC FEE GAS #1103	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8239909	82-0607	1711123400		103		MLGC FEE GAS #1104	MONROE GAS FIELD	27.3	MID LOUISIANA GAS
8239941	82-0931	1707321433		108		MLGC FEE GAS #13	MONROE GAS FIELD	14.8	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239958	82-0933	1707321435		108		MLGC FEE GAS #15	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO XIV				RECEIVED:	06/24/82	JA: LA			
8239990	82-0758	1707321819		108		THIBEAUX #1	MONROE	18.0	PETRO-LEWIS CORP
-NOE & WOODS				RECEIVED:	06/24/82	JA: LA			
8239944	82-0689	1711123494		103		FANNIE HAILE #2	MONROE GAS	0.0	DEVON CORP
8239945	82-0688	1711123491		103		UNION A #10	MONROE GAS	0.0	DEVON CORP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/24/82	JA: LA			
8239942	82-0916	1701320305		108		BAKER P #1 HOSS B SUMM	WEST BRYCELAND	6.0	LA GAS INTRASTATE
8239924	82-0917	1701300243		108		WALKER C #2 HILL SUZ	ADA	2.0	SOUTHWESTERN ELEC
8239923	82-0918	1701300014		108		WOODARD "C" #1 PET SUJ	ADA	17.0	SOUTHWESTERN ELEC
-PRIMOS PRODUCTION CO				RECEIVED:	06/24/82	JA: LA			
8239906	82-0884	1711123303		103		PETRO LEWIS CLARK ET AL #1	MONROE	14.4	PETRO LEWIS FUNDS
8239970	82-0592	1711122966		103		PETRO LEWIS FROST LUMBER #54	MONROE	14.4	PETRO LEWIS FUNDS
8239969	82-0593	1711122994		103		PETRO LEWIS FROST LUMBER #55	MONROE	13.3	PETRO LEWIS FUNDS
8239968	82-0594	1711122995		103		PETRO LEWIS FROST LUMBER #56	MONROE	10.3	PETRO LEWIS FUNDS
8240019	82-0595	1711123051		103		PETRO LEWIS FROST LUMBER #60	MONROE	14.4	PETRO LEWIS FUNDS
8239965	82-0671	1711123036		103		PETRO LEWIS FROST LUMBER #68	MONROE	14.4	PETRO LEWIS FUNDS
8239954	82-0675	1711123123		103		PETRO LEWIS FROST LUMBER #73	MONROE	14.4	PETRO LEWIS FUNDS
8239953	82-0676	1711123124		103		PETRO LEWIS FROST LUMBER #74	MONROE	14.4	PETRO LEWIS FUNDS
8239952	82-0677	1711123198		103		PETRO LEWIS FROST LUMBER #77	MONROE	14.3	PETRO LEWIS FUNDS
8239957	82-0885	1711123395		103		PETRO LEWIS J J WARD #1	MONROE	12.3	PETRO LEWIS FUNDS
8239907	82-0882	1711123177		103		PETRO LEWIS M F BROWN ET AL #2	MONROE	18.3	PETRO LEWIS FUNDS
8239960	82-0585	1711122918		103		PETRO LEWIS UNION POWER #17	MONROE	13.3	PETRO LEWIS FUNDS
8239959	82-0586	1711122941		103		PETRO LEWIS UNION POWER #18	MONROE	0.0	PETRO-LEWIS FUNDS
8239964	82-0672	1711123096		103		PETRO-LEWIS FROST LUMBER #69	MONROE	14.4	PETRO LEWIS FUNDS
8239962	82-0673	1711123097		103		PETRO-LEWIS FROST LUMBER #70	MONROE	14.4	PETRO LEWIS FUNDS
8239963	82-0674	1711123098		103		PETRO-LEWIS FROST LUMBER #71	MONROE	14.4	PETRO LEWIS FUNDS
8239984	82-0881	1711123176		103		PETRO-LEWIS M F BROWN #1	MONROE	12.3	PETRO LEWIS FUNDS
8240018	82-0583	1711122939		103		PETRO-LEWIS UNION POWER #15	MONROE	13.3	PETRO-LEWIS FUNDS
8239961	82-0584	1711122940		108		PETRO-LEWIS UNION POWER #16	MONROE	16.4	PETRO-LEWIS FUNDS
8240003	82-0883	1711123210		103		PETRO-LEWIS UNION POWER #29	MONROE	20.5	PETRO LEWIS FUNDS
8239993	82-0879	1711123140		103		PETRO-LEWIS UNION PRODUCING #3	MONROE	15.4	PETRO-LEWIS FUNDS
8239994	82-0880	1711123142		103		PETRO-LEWIS UNION PRODUCING #5	MONROE	12.3	PETRO-LEWIS FUNDS
-QUINTANA PETROLEUM CORP				RECEIVED:	06/24/82	JA: LA			
8239938	82-2980	1710121278		107-DP		MARYLAND CO #11 MA-7 RA SUA	MONROE	6.2	PETRO-LEWIS FUNDS
-SHELL OIL CO				RECEIVED:	06/24/82	JA: LA			
8239912	82-0418	1710922274		103		SOUTH HOUMA PETERS #10 SER #168076	GARDEN CITY	1825.0	UNITED GAS PIPE L
-SIERRA INDUSTRIES INC				RECEIVED:	06/24/82	JA: LA			
8239980	82-0633	1731215343		103		RASCOE 1 173994	SOUTH HOUMA	0.0	UNITED GAS PIPE L
-SUCCESS OIL & GAS CO INC				RECEIVED:	06/24/82	JA: LA			
8240002	82-0860	1711100462		108		JACK T BIRD #1	RED RIVER BULL BAYOU	146.0	LOUISIANA INTRAST
-TENNECO OIL COMPANY				RECEIVED:	06/24/82	JA: LA			
8239937	82-2828	1710922538		107-DP		DENNIS CENAC #14	MONROE	1.0	IMC PIPELINE CO I
-TEXACO INC				RECEIVED:	06/24/82	JA: LA			
8239967	82-1172	1731722848		102-4	103	D L GISH 1 CV RB SUH	LAKE BARRE	700.0	TENNESSEE GAS PIP
8239955	82-0640	1710922307		103		DGL U-12 72 DGL EE RU SU	CADDO-PINE ISLAND	164.0	ARKANSAS LOUISIAN
8240007	82-1170	1701722899		102-4	103	EDNA HAYGOOD 1 HOSS RB SUC	DOG LAKE	49.0	TEXAS GAS TRANSMI
8239997	82-1166	1701722661		102-4	103	FENNER 1 CV RB SUA	CADDO-PINE ISLAND	786.0	ARKANSAS LOUISIAN
8239925	82-0284	1710922353		107-DP		LB U45 #5 VU 45	CADDO-PINE ISLAND	440.0	ARKANSAS LOUISIAN
8239931	82-0630	1705721735		103		LL&E #321 142 RC2 VUA	LAKE BARRE	376.0	
8239934	82-0626	1708920358		103		LL&E PARADIS #91	LEEVILLE	103.0	KAISER ALUMINUM &
8239930	82-0632	1702321497		103		MIAMI CORP FEE 2	PARADIS	473.0	COLUMBIA GAS TRAN
8239929	82-0631	1702321497		103		MIAMI CORP FEE 2-D	SECOND BAYOU	316.0	KAISER ALUMINUM &
							SECOND BAYOU	1825.0	KAISER ALUMINUM &

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239966	82-0664	1710121046		103		SL 1819 #5-D-ALT 10700 RA SUB	SWEET BAY LAKE	290.0	KAISER ALUMINUM &
8239999	82-3000	1710922413		107-DP		SL 188 CAILLOU ISLAND #699	CAILLOU ISLAND	912.0	
8239983	82-2999	1710922422		107-DP		SL 188 LL&E U3 #10 VUD	CAILLOU ISLAND	879.0	TRANSCONTINENTAL
8239922	82-1167	1701722812		102-4	103	W V LUNN 1 HOSS RB SUB	CADDO-PINE ISLAND	475.0	ARKANSAS LOUISIAN
-THOMAS AITKEN INC				RECEIVED:	06/24/82	JA: LA			
8239921	82-0949	1711101180		108		G L NORMAN #1	MONROE	1.5	HADDOX PETROLEUM
-UNION TEXAS PETROLEUM				RECEIVED:	06/24/82	JA: LA			
8240008	82-0268	1706120249		103		SINGLETON 18 #1	TERRYVILLE SEC 18 T19	730.0	LOUISIANA GAS PUR
8240009	82-0269	1706120273		103		UCV RA SUN DOWLING 20 #1-D	TERRYVILLE (UPPER COT	730.0	SUGAR BOWL GAS CO
8239995	82-0730	1706120276		102-4		W D WALLACE 17 #1 LCV RA SUO	TERRYVILLE SEC 17 T 1	730.0	SUGAR BOWL GAS CO
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	06/24/82	JA: LA			
8239973	82-0550	1711123441		103		W W NOLAN #3	MONROE	25.0	WEST MONROE GAS G
**********									
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
**********									
-AMERICAN PENN ENERGY INC				RECEIVED:	06/24/82	JA: NY			
8240025	3447	3102916971		103		GREENE UNITE #3 (1525)	EVANS	10.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/24/82	JA: NY			
8240033	2389	3101316628		102-2		A WINTON #3	WILDCAT	47.0	COLUMBIA GAS TRAN
8240027	2525	3101316064		107-TF		GRANT BROCKWAY #1	GERRY	130.0	COLUMBIA GAS TRAN
8240035	2482	3101316727		102-2		HENDRICKSON #1	WILDCAT	40.0	COLUMBIA GAS TRAN
8240029	2658	3101316787		107-TF		L FORBES UNIT #1	GERRY	1.8	COLUMBIA GAS TRAN
8240028	2527	3101316065		107-TF		N WILSON #1	GERRY	123.0	COLUMBIA GAS TRAN
8240037	2376	3101316256		102-2		N Y S CHAUT REF AREA #1 - WELL #2	WILDCAT	0.4	COLUMBIA GAS TRAN
-CONSOLIDATED EXPLORATION & GATHERIN				RECEIVED:	06/24/82	JA: NY			
8240053	2494	3102916211		102-2		BRZEZICKI UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8240052	2488	3102916372		102-2		LAMB UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8240050	2487	3102916291		102-2		RIEFLER UNIT - #1	EDEN-EVANS	15.0	SCG GAS QUEST INC
-ENVIROGAS INC				RECEIVED:	06/24/82	JA: NY			
8240031	2859	3101315459		107-TF		J BOWEN #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240049	2517	3101316082		102-2		J LEGTERS #3	CLYMER	18.0	COLUMBIA GAS TRAN
8240020	2861	3101316621		107-TF		J NORDLAND #3	WILDCAT	18.0	NATIONAL FUEL GAS
8240021	2863	3101316712		107-TF		N Y S REF AREA #5/WELL #22	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240022	2865	3101316713		107-TF		N Y S REF AREA #5/WELL #23	LAKESHORE	18.0	COLUMBIA GAS TRAN
-J B C CORP				RECEIVED:	06/24/82	JA: NY			
8240023	2855	3101316429		107-TF		SELLSTROM & BARGAR #2	LAKE SHORE	12.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	06/24/82	JA: NY			
8240026	3482	3100916415		103		EVANS #4	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8240024	3486	3100916418		103		EVANS #5	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	06/24/82	JA: NY			
*8240042	2398	3105116107		102-2		J J WADSWORTH #4 LRC #56	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240036	2397	3105116108		102-2		J J WADSWORTH #5 LRC #57	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240039	2396	3105116109		102-2		J J WADSWORTH #6 LRC #58	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240038	2395	3105116114		102-2		J J WADSWORTH #7 LRC #59	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240034	2515	3105116105		102-2		L L CALLAN #1 LRC #61	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240041	2393	3105116106		102-2		L L CALLAN #2 LRC #62	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240040	2394	3105116104		102-2		T P LINDER #1 LRC #60	FINNEGAN HILL	20.0	NEW JERSEY NATURA
-NORD/MONTARA PETROLEUM CO				RECEIVED:	06/24/82	JA: NY			
8240051	2324	3112116330		102-2		REISDORF UNIT #1	JAVA MEDINA	15.0	COLUMBIA GAS TRAN
-OXFORD EXPLORATION COMPANY				RECEIVED:	06/24/82	JA: NY			
8240046	1264	3112115460		102-2		HOLLISTER #1	PERRY	44.0	COLUMBIA GAS TRAN
8240047	1266	3112115615		102-2		O'CONNELL #1	PERRY	73.0	COLUMBIA GAS TRAN
8240048	1265	3112115569		102-2		WHEELER #1	PERRY	146.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-P & S DRILLING INC				RECEIVED:	06/24/82	JA: NY			
8240044	1295	3102915490		102-2		BUFFALO CREEK #1	BUFFALO CREEK	20.0	NATIONAL FUEL GAS
8240045	1475	3102915825		102-2		BUFFALO CREEK #2	BUFFALO CREEK	12.0	NATIONAL FUEL GAS
8240043	2307	3102915249		102-2		MARR-SERENA #1	BUFFALO CREEK	21.9	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC				RECEIVED:	06/24/82	JA: NY			
8240030	2360	3101315581		102-2		MARVIN WELLMAN #3	WILDCAT	36.0	COLUMBIA GAS TRAN
8240032	2362	3101312512		102-2		MILTON WOOLLEY-NY #43 31-013-12512	LEON	36.0	COLUMBIA GAS TRAN

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OKLAHOMA CORPORATION COMMISSION

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-ADVANCE ENERGY SYSTEMS INC				RECEIVED:	06/23/82	JA: OK			
8240077	15094	3514300000		103		SOUTH SIVADON G1			
-ANDOVER OIL COMPANY				RECEIVED:	06/23/82	JA: OK		0.0	PHILLIPS PETROLEU
8240059	17273	3501722137		102-4		REESE #18-1		180.0	PHILLIPS PETROLEU
8240084	15104	3504321252		103		VANDERWORK #6-1		0.0	DELHI GAS PIPELIN
-BANCO OIL & GAS INC				RECEIVED:	06/23/82	JA: OK			
8240083	14628	3504520766		103		LONG #1	S SALON	51.0	DELHI GAS PIPELIN
-BOBBY J DARNELL				RECEIVED:	06/23/82	JA: OK			
8240089	14973	3508320905		103		NEW CONTINENTAL PETROLEUM INC #18	W MULHALL	4.3	EASON OIL CO
-CONOCO INC				RECEIVED:	06/23/82	JA: OK			
8240076	19209	3514920168		107-DP		KIDD "13" #1	FT COBB FIELD	292.0	
-CORE OIL & GAS CORP				RECEIVED:	06/23/82	JA: OK			
8240074	13204	3515321150		102-4		EZRA #1	VICI NE	397.0	NORTHERN NATURAL
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/23/82	JA: OK			
8240057	17945	3501521345		102-2		KIMBLE #1-4	S W HINTON	0.0	
-DAVIS OIL COMPANY				RECEIVED:	06/23/82	JA: OK			
8240090	15080	3501121571		103		FRANK #1	RAMING	0.0	TRANSOK PIPELINE
8240088	14904	3500320854		103		STURGEON #1	HELENA	0.0	PANHANDLE EASTERN
-ESTORIL PRODUCING CORP				RECEIVED:	06/23/82	JA: OK			
8240060	17127	3512521393		102-2	103	SCOTT #1	NE TECUMSEH	54.7	BETHEL GAS CO
8240061	17126	3512521271		102-2	103	TANTON #1	NE TECUMSEH	36.5	BETHEL GAS CO
-FLINT & ASSOCIATES				RECEIVED:	06/23/82	JA: OK			
8240086	14427	3510720979		103		SOUTHLAND #1	GREGORY	146.0	PUBLIC SERVICE CO
-HINKLE ENGINEERING INC				RECEIVED:	06/23/82	JA: OK			
8240082	15087	3511921711		103		FINNELL-LAFON #1-6	ORLANDO	50.0	EASON OIL CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	06/23/82	JA: OK			
8240073	#6331	3513900000		108		C M REYNOLDS #1	HUGOTON FIELD	16.0	CITIES SERVICE GA
-L & T OIL & GAS INC				RECEIVED:	06/23/82	JA: OK			
8240067	15088	3507323332		103		HOLLAND "32" #3	SOONER TREND	27.0	CONOCO INC
-MCFARLAND ENERGY INC				RECEIVED:	06/23/82	JA: OK			
8240070	15093	3506321458		103		MEADORS 1-31	NORTH FUHRMAN	0.0	PUBLIC SERVICE CO
-NATURAL GAS ANADARKO INC				RECEIVED:	06/23/82	JA: OK			
8240058	17342	3500722239		102-2		DICK 1-2	SOUTH BALKO	250.0	TRANSWESTERN PIPE
-P-T LTD 81				RECEIVED:	06/23/82	JA: OK			
8240078	15097	3509322344		103		OTT 9-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PETRO-LEWIS CORPORATION				RECEIVED:	06/23/82	JA: OK			
8240091	9445	3507300000		108-ER		IVEN 13 #1		0.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/23/82	JA: OK			
8240066	13312	3501721686		103		CONNELLY TRUST "A" #1	W OKARCHE	250.0	ONG WESTERN INC
-SAMEDAN OIL CORPORATION				RECEIVED:	06/23/82	JA: OK			
8240063	17965	3508520539		102-2		BANKS #2-8	NO NAME	10.0	AMINOIL USA INC
-SERVICE DRILLING CO				RECEIVED:	06/23/82	JA: OK			
8240054	17948	3506120434		102-2		BIGGER #1-7A		18.3	UNITED GAS PIPELI

VOLUME 689 PAGE 006

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240056	17946	3506120474		102-2		BRYAN #1-8		183.0	UNITED GAS PIPELI
8240055	17947	3506120457		102-2		CALLOWAY #1-8		183.0	UNITED GAS PIPELI
8240075	17949	3506120000		102-2		LILLARD #1-8		183.0	UNITED GAS PIPELI
-SHELL OIL CO				RECEIVED:	06/23/82	JA: OK			
8240064	17923	3505100000		102-4		SHELL ELLIS #1-35	TABLER NE	1934.0	
-STANTON PETROLEUM CO				RECEIVED:	06/23/82	JA: OK			
8240087	14796	3511921740		103		DORA KELLY #1		14.0	COLORADO GAS COMP
-SUNDANCE ENERGY CORP				RECEIVED:	06/23/82	JA: OK			
8240068	15089	3504722048		103		BEGGS #2	N E ENID	246.0	CHAMPLIN PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	06/23/82	JA: OK			
8240062	15110	3507920432		103		KELLY-MOORE #1	WILDCAT	230.0	
8240085	15109	3504321261		103		PERCY "C" #1	NW NOBSCOT	109.0	
-VAB INC				RECEIVED:	06/23/82	JA: OK			
8240072	00804	3510700000		108		NAZZARENA-HOLT #5	SECTION 6-10N-12E	10.0	PHILLIPS PETROLEU
-VIERSEN & COCHRAN				RECEIVED:	06/23/82	JA: OK			
8240081	15101	3504722773		103		CHARLES TABORSKY #2	SOONER TREND	70.0	EXXON CORP
8240079	15099	3504722803		103		JAMES TABORSKY #2	SOONER TREND	70.0	EXXON CORP
8240080	15100	3501121664		103		TRIBAL #3-32	WATONGA TREND	72.0	DELHI GAS PIPELIN
-WHITMAR EXPLORATION CO				RECEIVED:	06/23/82	JA: OK			
8240065	17553	3506120455		102-3		SADDLEBACK #1-15	SOUTH MCCURTAIN	0.0	ARKANSAS LOUISIAN
-WILLIAM C PRATT				RECEIVED:	06/23/82	JA: OK			
8240071	15095	3511700000		103		PAXTON #1-A	MARAMEC	100.0	COLORADO GAS COMP
-WOODS PETROLEUM CORPORATION				RECEIVED:	06/23/82	JA: OK			
8240069	19220	3503920635		107-DP		STRATTON FARMS #36-1	TURKEY CREEK	47.0	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :689

8240034	ELIZABETHTOWN GAS CO
8240036	ELIZABETHTOWN GAS CO
8240038	ELIZABETHTOWN GAS CO
8240039	ELIZABETHTOWN GAS CO
8240040	ELIZABETHTOWN GAS CO
8240041	ELIZABETHTOWN GAS CO
8240042	ELIZABETHTOWN GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19169 Filed 7–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–515–000]

American Electric Power Service Corp., and Carolina Power and Light Co.; Order Accepting Rate for Filing, Acknowledging Intervention, and Establishing Hearing Procedures

Issued: July 9, 1982.

On May 11, 1982, Carolina Power and Light Company (CP&L) and the American Electric Power Service Corporation (AEP), on behalf of Appalachian Power Company (APC), submitted for filing increases in their interchange demand charges for short and limited-term power from $1.05 to $1.25/kW/week and from $5.50 to $6.50/kW/month, respectively.[1] The same rate levels were previously accepted for filing as they apply to AEP by letter dated November 10, 1981, in Docket No. ER81–774–000, and were accepted as to APC by letter dated March 23, 1982, in Docket No. ER82–296–000. CP&L is currently proposing these rates for the first time.

Notice of the filing was issued on May 19, 1982, with responses due on or before June 4, 1982. The Public Service Commission of West Virginia filed a timely notice of intervention in which it requested a hearing. The West Virginia Commission expresses concern that APC is not maximizing its revenues from non-firm interchange services under the proposed rates. The intervenor appears to be suggesting that inadequate revenues from such sales (and correspondingly inadequate revenue credits to the cost of service applicable to APC's firm customers) would be detrimental to firm service customers in West Virginia.

On June 18, 1982, APC filed a response to PSCWV's notice of intervention. It notes that the rates involved here are under voluntary service schedules between APC and CP&L and are reciprocal in nature so that at a given time a party may be either a seller or a buyer of one or more of the available interchange services. Rates must be such, according to APC to induce both suppliers and purchasers to use these services. It states that additional increases in the rates would lessen its ability to compete for sales in the interchange market. APC states that a hearing is therefore unnecessary.

Discussion

The timely filed notice of intervention is sufficient to initiate the West Virginia Commission's participation in this proceeding.

As noted above, rates identical to those currently proposed were previously accepted for filing as to APC. As applied to both APC and CP&L, our preliminary review suggests that the short and limited-term charges provide a fair contribution to the capital costs otherwise borne by the firm service customers. No challenge has been raised with respect to CP&L's rates filing and the intervenor commission, in challenging APC's proposed rate, has not requested suspension. Inasmuch as the West Virginia Commission is essentially suggesting the need for yet a further increase in APC's proposed rates, any relief found to be warranted would be prospective in effect; thus, suspension and a refund obligation are inappropriate. Nonetheless, we believe that the West Virginia Commission should be provided an opportunity to pursue its claims. Accordingly, we shall accept the rates for filing to become effective, without suspension, and we shall initiate a hearing concerning the justness and reasonableness of the rates filed on behalf of APC.

AEP requests that the Commission waive the notice requirements and permit a May 1, 1982 effective date for the revised rates. It states that the proposed rate is on file with respect to other bilateral agreements, and that this service is being provided to other customers at the proposed rate. Neither CP&L nor the West Virginia Commission objects to the waiver and the only challenge to APC's proposed rates consists of an argument that these rates, which are higher than those currently in effect, may nonetheless not be cost-compensatory. Under these circumstances, we find that good cause exists for waiver of notice and we shall permit a May 1, 1982 effective date.

The Commission orders:

(A) AEP's request for waiver of the notice requirements is hereby granted for good cause shown.

(B) The rates filed in this docket by CP&L and by AEP, on behalf of APC, are hereby accepted for filing, to become effective on May 1, 1982, without suspension.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of APC's short- and limited-term rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in this

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[1] Rate Schedule Designations:

(1) *Appalachian Power Company* Supplement No. 12 to Rate Schedule FPC No. 24 (Supersedes Supplement No. 11).

(2) *Carolina Power & Light Company* Supplement No. 7 to Rate Schedule FPC No. 44 (Supersedes Supplement No. 6 and Concurs (1) above).

Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19164 Filed 7-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-160-000]

Centel Corp.; Order Granting Motion To Collect Interim Rates Pending Commission Action on Settlement Proposal

Issued: July 9, 1982.

On June 4, 1982, Centel Corporation (formerly Central Telephone and Utilities Corporation) filed a joint motion with its intervenor customers seeking Commission approval to permit Centel to bill its customers, starting June 1, 1982, at rates based on a settlement of the proceeding in this docket. The joint motion indicates that a settlement in principle has been reached and seeks waiver of applicable notice requirements. The motion also provides for a potential surcharge for Centel to collect the difference between its originally filed rates and the lower settlement rates in the event that a settlement agreement is not finalized by June 15, 1982, or if the settlement is not approved by the Commission. For the reasons stated below, we shall grant the motion.

Centel filed its originally proposed rates on December 18, 1981. By order issued on February 16, 1982, 18 FERC ¶61,132, the Commission accepted the proposed rates for filing (as modified by summary disposition), suspended them until February 18, 1982, and ordered a hearing. Settlement negotiations among the parties have since resulted in a settlement in principle and Centel states that a formal settlement agreement will be filed in the near future.

The joint motion is designed to make the lower settlement rates immediately available and to minimize Centel's potential refund liability. As noted, if the settlement is not approved, the joint motion seeks authorization for Centel to collect, over a period of time equivalent to the period of time that the settlement rates were in effect, a surcharge (also subject to refund) designed to enable Centel to recover the difference between revenues collected under the settlement rates and the revenues that would have been collected under the filed rates for the period of time when the settlement rates were in effect. The requested surcharge also would include interest (subject to refund) to be computed in accordance with section 35.19a of the Commission's regulations. The affected customers have joined in all aspects of the motion and the Commission staff is said to concur in the parties' requests. Under the circumstances, we believe that the public interest will be served by granting the joint motion.

Pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the settlement rates (subject to refund) as of June 1, 1982,[1] until such time as the Commission acts on the settlement agreement to be filed by Centel. This order, however, shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The motion filed by Centel and the intervenors on June 4, 1982, requesting permission for Centel to collect reduced settlement rates in lieu of its originally filed rates is hereby granted.

(B) Good cause having been shown, Centel is hereby authorized, pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, to collect, subject to refund, the settlement rates reflected in the joint motion from June 1,1982, until final Commission action on the settlement. In the event that the settlement is not approved, the provisions of the joint motion shall apply as to rates for the interim period.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19165 Filed 7-14-82; 8:45 am]

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[Docket No. ER82-375-000]

Gulf States Utilities Co.; Order Accepting for Filing and Suspending Rates, Granting Intervention, Denying Motions To Reject, Granting Summary Disposition in Part, Granting Waiver in Part, and Establishing Hearing and Price Squeeze Procedures

Issued: July 9, 1982.

On March 10, 1982, as completed on May 10, 1982,[1] Gulf States Utilities Company (GSU) tendered for filing revised rates for service to its rural electric cooperative and wholesale municipal customers.[2] GSU also has applied for permission to include construction work in progress (CWIP) in rate base prospectively. The proposed rates would result in increased revenues of approximately $33.3 million (exclusive of CWIP) and $63.7 million (including CWIP) based on the calendar 1982 test year. GSU requests waiver of the notice requirements and an effective date of May 9, 1982, 60 days after the original submittal.

GSU also proposes to modify its fuel adjustment clause to recover (1) capacity charges paid to cogenerators and small power producers, and (2) capacity-related costs associated with economy energy purchases.

Notice of GSU's filing was issued on March 16, 1982, with comments due on or before April 1, 1982. On April 1, 1982, the Sam Rayburn Municipal Power Agency (SRMPA) and the City of College Station, Texas (College Station) each filed a petition to intervene, protest, and motions for partial summary rejection and phasing. SRMPA and College Station request summary rejection of GSU's proposed demand ratchet and GSU's proposed fuel adjustment clause. SRMPA and College Station request a five month suspension, raising nine cost of service issues, and request that GSU's CWIP application be considered in a separate phase of the proceeding.

Also on April 1, 1982, the Towns of Abbeville, Kaplan, Gueydan, Rayne, Welsh, Plaquemine, new Roads, and St. Martinsville, Louisiana, and the Towns of Kirbyville, Newton, and Caldwell, Texas, each filed a petition to intervene, protest, request for rejection or a five month suspension and hearing. On April 2, 1982, the Town of Erath, Louisiana (hereinafter referred to, together with the aforementioned petitioners, as the Municipal Customers), filed a similar pleading. The Municipal Customers request rejection of the filing, claiming that GSU did not provide sufficient information to comply with § 35.13(h) of the Commission's regulations, that GSU's proposal to recover capacity charges paid to cogenerators and small power producers and capacity-related costs associated with future economy energy purchases through its fuel adjustment clause violates § 35.14 of the Commission's regulations, and that the proposed fuel adjustment clause is algebraically defective. Alternatively,

[1] According to the motion, bills for service rendered on or after June 1, 1982 will not be issued until July 6, 1982.

[1] By letter dated April 22, 1982, the company was advised that its original tender was deficient.

[2] *See* Attachment A for customers and rate schedule designation.

the Municipal Customers request a five month suspension and summary rejection of GSU's proposed demand ratchet. Additionally, the Municipal Customers raise various other cost of service issues and allege price squeeze. The Municipal Customers further request that GSU's CWIP application be phased, and considered only after a final Commission determination of the other issues raised.

Sam Rayburn G&T, Inc. (SRG&T) filed a timely petition to intervene and motion for summary disposition on April 1, 1982. SRG&T requests summary disposition of GSU's failure to synchronize interest expense, GSU's treatment of a cancelled nuclear unit as plant held for future use, and GSU's proposed demand ratchet. SRG&T also requests a five month suspension, raising a number of cost of service issues.

On April 1, 1982, Brazos Electric Power Corporation, Inc. (Brazos) petitioned to intervene, protested, and requested initiation of price squeeze procedures and a maximum suspension. In support of its requests, Brazos also raises a variety of cost of service issues.

On April 1, 1982, Cajun Electric Power Corporation, Inc. (Cajun) filed a petition to intervene, protest, request for rejection or suspension, and motion for summary disposition. Like the Municipal Customers, Cajun requests rejection of GSU's filing, claiming non-compliance with § 35.13 of the regulations, that GSU's proposed fuel adjustment clause violates section 35.14 of the regulations, and that the fuel clause is algebraically defective. Alternatively, Cajun requests that GSU be ordered to supplement its filing to comply with §§ 35.13 and 35.14 and requests summary rejection of GSU's failure to synchronize interest expense, GSU's inclusion of short-term debt in its capital structure, and GSU's proposed demand ratchet. Additionally, Cajun requests that GSU's CWIP application be phased and considered after a final Commission determination of the other issues raised.

On April 1, 1982, the City of Lafayette, Louisiana (Lafayette) filed a protest, petition to intervene, motion to reject, request for issuance of deficiency letter and/or request for a five month suspension of the transmission rate increase. Lafayette requests rejection of GSU's filing, summary rejection of GSU's proposal to charge transmission customers for losses, or issuance of a deficiency letter. Lafayette also requests summary rejection of GSU's inclusion of transmission facilities below 138 kV in the rate for Lafayette on the grounds that such inclusion is discriminatory. Additionally, Lafayette requests that acceptance of the filing be conditioned on GSU's assurance that it does not provide for double recovery of transmission costs.

On April 19, 1982, GSU answered the various pleadings. GSU opposes rejection, the requests for summary disposition, and the requests for a five month suspension. Additionally, GSU requests that the Commission rule that price squeeze is not an issue in this proceeding, and requests that a separate hearing on its CWIP application be held immediately after the receipt of evidence on the other hand. GSU indicates that its CWIP request is based on the Commission's pending CWIP rulemaking rather than the existing standards set forth in section 2.16 of the regulations.

On April 27, 1982, Leroy E. Swift filed a letter noting that GSU is the main power supplier to the Sam Houston Electric Cooperative, Inc. (SHECO) and that electric bills are of some concern to the rural customers of SHECO. Mr. Swift requests that the Commission consider GSU's wholesale rate filing very carefully.

On May 12, 1982, Congressman Bill Patman submitted a letter on behalf of the City of Caldwell, Texas, noting that the requested rate increase would create a heavy financial burden on fixed and low income residents of Caldwell, and protesting GSU's request for inclusion of CWIP in rate base. Congressman Patman requests a five month suspension of the non-CWIP rates and rejection of GSU's CWIP application.

On May 20, 1982, Lafayette filed a letter claiming that the additional information filed by GSU on May 10, 1982, in response to the earlier deficiency letter, did not cure the deficiencies alleged by Lafayette in its petition to intervene with respect to the transmission rate schedules. Lafayette requests the issuance of a further deficiency letter of rejection of the filing.

By letter dated May 24, 1982, GSU requested that the Commission disregard Lafayette's letter of May 20, 1982. Alternatively, GSU requests consideration of its responses to Lafayette's contentions contained in GSU's answer filed on April 19, 1982, and claims that Lafayette's contention as to the possibility of a double billing is an issue for hearing rather than a basis for rejection of conditional acceptance of the filing.

On May 25, 1982, Brazos and Lafayette filed responses to GSU's request for wavier of the notice requirements. Brazos opposes waiver on the grounds that such waiver would constitute retroactive ratemaking. Lafayette again claims that GSU has not cured deficiencies in its transmission rate filing and that the proposed transmission rates are substantially excessive.

On June 4, 1982, GSU filed a letter in further support of its request for waiver of notice, noting that its Nelson Nuclear Unit No. 6 was placed in commercial operation on May 31, 1982, and that as a result, if the rates are not allowed to become effective as requested, GSU's customers will immediately realize the benefit of substantial fuel cost savings without the concurrent obligation of contributing to associated units costs.

On June 4, 1982, Cajun filed a supplement to its petition to intervene and response to GSU's further submittals. Cajun reaffirms its position with respect to its request for rejection or summary disposition and a five month suspension. Additionally, Cajun opposes GSU's request for waiver of the notice requirements, arguing retroactive ratemaking and the absence of good cause for waiver.

Discussion

The Commission finds that participation in this proceeding by the petitioners is in the public interest. Furthermore, given the early stages of the proceeding, the interest of the Town of Erath as an affected customer, and the fact that its petition was only one day late, we find that good cause exists to permit that customer to intervene out of time. Accordingly, each of the petitions to intervene will be granted.

Having considered the pleadings, as well as GSU's submittals, we find that the proposed rates should not be summarily rejected inasmuch as the submittal, as supplemented by GSU's filing on May 10, 1982, substantially complies with the Commission's filing requirements.[3]

As to Lafayette's contentions with respect to the transmission rate schedules, we believe the more appropriate course, in light of the fact that the existing billing provisions and rate designs have not been altered, is to consider these matters on the basis of an evidentiary hearing. Accordingly, we shall deny Lafayette's motion to reject.

We shall also deny the requests for summary rejection of GSU's demand ratchet and inclusion of a revolving line of credit in its capital structure. Since the demand ratchet has not changed from GSU's prior rates and because the notes comprising the contested debt obligation do not become payable until

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

1986, we believe that these matters should be addressed at hearing.

Concerning the Municipal Customers' and Cajun's contentions with respect to GSU's request to recover capacity charges paid to cogenerators and small power producers through the fuel adjustment clause, we find that GSU has not shown good cause for waiver of § 35.14 of the Commission's regulations and that the company's proposal may result in excess collections. Accordingly, GSU will be ordered to file a revised fuel adjustment clause, consistent with this order, without prejudice to the company's opportunity to show at hearing good cause for the requested fuel clause treatment.[4]

GSU also seeks permission to recover capacity-related costs associated with future economy energy purchases through its fuel adjustment clause. A similar proposal was previously made to the Commission by Florida Power & Light Company (FP&L). In considering that prior request, we noted that:

> Arguably * * * where energy is purchased on an economic dispatch basis and demand costs are being incurred solely to reduce energy costs (that is, the purchase is unnecessary with respect to adequacy of reserves), such purchases would not be inconsistent with the intent of section 35.14.[5]

We note that GSU is proposing to recover these capacity-related costs through the fuel clause only where such power is purchased solely for purposes of reducing energy costs and where the total cost per kilowatt hour is below GSU's incremental fuel cost. Although this would represent a departure from the letter of the Commission's regulations, those regulations were established in a very different economic environment in which capacity costs were rarely incurred for reasons other than meeting reserve requirements. It was therefore found to be appropriate to deny automatic passthrough of capacity costs in the fuel clause. Where, however, as here, the capacity costs are incurred solely to reduce the overall energy cost, we believe that it is appropriate and desirable to allow such a passthrough and to thereby encourage more economical power purchases which benefit the customers as well as the company. We therefore find good cause to waive the requirements of § 35.14 and to permit Gulf States to pass such costs through its fuel clause, without filing each time. The fuel costs so collected shall be subject to refund pending a hearing on the questions of the computation, oversight, and operation of this particular fuel clause. However, we reiterate our current view that a passthrough of capacity costs, incurred solely to reduce energy costs as described above, is in the public interest.

We note that GSU's proposed fuel clause, unlike the typical clause, includes a separate base cost for demand charges associated with economy energy purchases. However, as pointed out by the intervenors, the adjustment mechanism is designed in such way that it would reflect only increases in economy transaction demand costs above the level reflected in the test period base. In order to assure that the clause operates equitably, we shall direct GSU to modify its proposed fuel adjustment clause so that demand costs are also reflected in billings when, as a result of economy energy purchases, demand costs are lower than those inluced in the fuel included base.

We note that GSU has not synchronized the interest expense used in the income tax calculation with the interest portion of the claimed rate of return. The company, however, indicated in its answer to the petitions to intervene that it would agree to refile its rates reflecting a synchronized interest deduction. Commission policy and practice have consistently required the computation of the long-term debt cost component of the interest expense tax deduction as the product of a utility's allocated rate base and the weighted cost of long-term debt.[6] Accordingly, we shall require GSU to file revised rates consistent with such Commission precedent.

The Commission also notes that GSU has included in its rate base costs relating to the cancelled Blue Hills Nuclear Project and that its present construction program, which extends through the early 1990's, does not include construction of a generating plant at the Blue Hills site. Commission Order No. 420 (January 7, 1971) permits only the cost of land held for future use to be included in rate base in the absence of a definite plan. Accordingly, consistent with Order No. 420 and established Commission precedent precluding rate base inclusion of cancelled plant,[7] GSU, in refiling its rates, will be required to reduce its rate base by the amount of the non-land property related to the cancelled Blue Hills Nuclear Project.

In addition, GSU's filing does not comply with § 35.25 of the Commission's regulations and Order No. 144–A in that GSU has failed to normalize all timing differences required therein. Therefore, we shall also require GSU to revise its rates and cost of service statements to reflect tax normalization procedures consistent with Order No. 144–A and § 35.25 of the regulations.[8] Such cost data should clearly indicate how and to what extent GSU has reflected Accelerated Cost Recovery System tax depreciation deductions and normalizations in its cost of service.

The Commission recently initiated a rulemaking proceeding concerning the standards for including CWIP in rate base.[9] In order to maintain the *status quo ante* pending further Commission action and to avoid any prejudice to rate case participants, the Commission has since set for hearing several CWIP applications but has phased that issue to follow the rulemaking proceeding.[10] Since GSU states that it does not seek CWIP on the basis of financial distress, but on the basis of the proposed rulemaking, we conclude that this approach is particularly appropriate in the instant case. Accordingly, the Commission will phase consideration of GSU's CWIP application, to be considered at the conclusion of the rulemaking proceeding.

Our preliminary examination of the filing and the pleadings indicates that GSU's proposed non-CWIP rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed non-CWIP rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). As explained there, where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as

[4] *See Florida Power & Light Company*, Docket No. ER81–588–000 (September 2, 1981).

[5] *Id.*

[6] *See Public Service Company of New Mexico*, Opinion No. 133, 17 FERC ¶ 61,123 (1981); *Union Electric Company*, Opinion No. 94, 12 FERC ¶ 61,239 (1980); *Alabama Power Company*, Docket No. E–8851, Opinion No. 54 (August 1, 1979).

[7] *E.g., New England Power Company*, Opinion No. 49 (July 19, 1979).

[8] *See Wisconsin Electric Power Company*, Docket No. ER82–347–000 (April 13, 1982).

[9] *Construction Work in Progress For Public Utilities*, Docket No. RM81–35, *Notice of Proposed Rulemaking*, (July 27, 1981).

[10] *See, e.g., El Paso Electric Company*, Docket No. ER81–426–000 (June 30, 1981); *Central Power and Light Company*, Docket No. ER81–387–000 (July 27, 1981).

described in *West Texas,* we shall suspend the rates for one day. Because our preliminary examination indicates that GSU's non-CWIP rates, as modified consistent with this order, may not yield excessive revenues, we shall suspend those rates for only one day. However, we are unable to conclude that good cause exists to waive the notice requirements, particularly in view of the substantial deficiencies in GSU's original submittal and the absence of customer concurrence. Accordingly, we shall deny GSU's request for waiver of the notice requirements and suspend the non-CWIP rates for one day from sixty days after completion of the filing to become effective, as modified, on July 11, 1982, subject to refund.

In light of the price squeeze allegations raised by the intervenors, we shall institute price squeeze procedures and phase those proceedings in accordance with Commission policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979).

The Commission orders:

(A) The motions to reject GSU's filing are hereby denied.

(B) The requests for summary rejection of GSU's proposed demand ratchet and inclusion of a revolving line of credit in its capital structure are hereby denied.

(C) GSU's request to recover through its fuel adjustment clause capacity charges paid to cogenerators and small power producers is rejected without prejudice as noted in the body of this order. GSU shall file, within thirty (30) days of the date of this order, a revised fuel adjustment clause reflecting this determination, and revised rates and cost statements reflecting the summary dispositions set forth in Paragraphs (E)–(G) below,

(D) Waiver of § 35.14 is hereby granted for good cause shown to permit GSU to collect, subject to refund, the capacity cost component of purchased power where (1) the total cost of energy and demand is less than the company's incremental cost of energy, and (2) demand costs are being incurred solely to reduce energy costs. GSU's revised fuel adjustment clause should also reflect decreases in the demand portion of purchased power costs incurred solely to reduce energy costs as well as increases in such costs.

(E) GSU's calculation of the interest expense tax deduction is summarily rejected. Computation of the long-term debt cost component of the interest expense tax deduction as the product of GSU's allocated rate base and the weighted cost of long-term debt shall be reflected in GSU' revised filing.

(F) GSU's inclusion in its rate base of non-land costs relating to the cancelled Blue Hills Nuclear Project is summarily rejected. This determination shall also be reflected in GSU's revised filing.

(G) Summary disposition is hereby ordered with respect to GSU's failure to reflect full tax normalization of all timing differences as required by Order No. 144–A. GSU's revised rates and cost of service statements shall conform fully to the Commission's normalization requirements. Such cost data shall clearly indicate how and to what extent GSU has reflected Accelerated Cost Recovery System tax depreciation deductions and normalizations in its cost of service.

(H) GSU's application for authorization to include CWIP in rate base is hereby phased so that the application will be heard subsequent to Commission action in Docket No. RM81–38.

(I) GSU's request for waiver of the notice requirements is hereby denied.

(J) GSU's non-CWIP rates, as modified to conform to this order, are hereby accepted for filing and suspended for one day from 60 days after completion of the filing to become effective, subject to refund, on July 11, 1982.

(K) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of GSU's rates.

(L) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order of the Commission in this proceeding.

(M) The Commission staff shall serve top sheets in this proceeding on or before July 26, 1982.

(N) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motion to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(O) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(P) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A.—GULF STATES UTILITIES CO., RATE SCHEDULE DESIGNATIONS, DOCKET NO. ER82-375-000

Designation	Other party	Description
(1) Supplement No. 14 to Rate Schedule FPC No. 104	Cajun Electric Power Cooperative, Inc	Amendments to Agreement.
(2) Supplement No. 15 to Rate Schedule FPC No. 104 (Supersedes Supplement No. 9)	do	Rate Schedule—WSD.
(3) Supplement No. 3 to Supplement No. 6 to Rate Schedule FPC No. 108 (Supersedes Supplement No. 2 to Supplement No. 6).	City of Lafayette	Rate Schedule LTS-GSU.
(4) Supplement No. 3 to Supplement No. 6 to Rate Schedule FPC No. 109 (Supersedes Supplement No. 2 to Supplement No. 6).	City of Plaquimine	Rate Schedule LTS-GSU.
(5) Supplement No. 9 to Rate Schedule FPC No. 110	Kirbyville Light and Power Company	Amendments to Agreement.
(6) Supplement No. 10 to Rate Schedule FPC No. 110 (Supersedes Supplement No. 9)	do	Rate Schedule WSD.
(7) Supplement No. 11 to Rate Schedule FPC No. 110	do	Rate Schedule WSA.
(8) Supplement No. 9 to Rate Schedule FPC No. 111	Town of Gueydan	Amendments to Agreement.
(9) Supplement No. 10 to Rate Schedule FPC No. 111 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(10) Supplement No. 11 to Rate Schedule FPC No. 111	do	Rate Schedule WSA.
(11) Supplement No. 6 to Rate Schedule FPC No. 112	City of Caldwell	Amendments to Agreement.
(12) Supplement No. 7 to Rate Schedule FPC No. 112 (Supersedes Supplement No. 5)	do	Rate Schedule WSD.
(13) Supplement No. 9 to Rate Schedule FPC No. 113	Town of Kaplan	Amendments to Agreement.
(14) Supplement No. 10 to Rate Schedule FPC No. 113 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(15) Supplement No. 11 to Rate Schedule FPC No. 113	do	Rate Schedule WSA.
(16) Supplement No. 9 to Rate Schedule FPC No. 114	Town of Welsh	Amendments to Agreement.
(17) Supplement No. 10 to Rate Schedule FPC No. 114 (Supersedes Supplement No. 8)	do	Rate Schedule WST.
(18) Supplement No. 11 to Rate Schedule FPC No. 114	do	Rate Schedule WSA.
(19) Supplement No. 7 to Rate Schedule FPC No. 115	City of Newton	Amendments to Agreement.
(20) Supplement No. 8 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 6)	do	Rate Schedule WSD.
(21) Supplement No. 7 to Rate Schedule FPC No. 116	Houston County Electric Coop., Inc	Amendments to Agreement.
(22) Supplement No. 8 to Rate Schedule FPC No. 116 (Supersedes Supplement No. 6)	do	Rate Schedule WSD.
(23) Supplement No. 8 to Rate Schedule FPC No. 117	Town of Abbeville	Amendments to Agreement.
(24) Supplement No. 9 to Rate Schedule FPC No. 117 (Supersedes Supplement No. 7)	do	Rate Schedule WSD.
(25) Supplement No. 10 to Rate Schedule FPC No. 117	do	Rate Schedule WSA.
(26) Supplement No. 9 to Rate Schedule FPC No. 118	Town of St. Martinville	Amendments to Agreement.
(27) Supplement No. 10 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(28) Supplement No. 11 to Rate Schedule FPC No. 118	do	Rate Schedule WSA.
(29) Supplement No. 5 to Rate Schedule FPC No. 120	Town of Erath	Amendments to Agreement.
(30) Supplement No. 6 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 4)	do	Rate Schedule WSD.
(31) Supplement No. 4 to Rate Schedule FPC No. 123	City of College Station	Amendments to Agreement.
(32) Supplement No. 5 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 3)	do	Rate Schedule WST.
(33) Supplement No. 4 to Rate Schedule FPC No. 125	Town of New Roads	Amendments to Agreement.
(34) Supplement No. 5 to Rate Schedule FPC No. 125 (Supersedes Supplement No. 3)	do	Rate Schedule WSD.
(35) Supplement No. 8 to Rate Schedule FERC No. 126	Brazos Electric Power Coop., Inc	Amendments to Agreement.
(36) Supplement No. 9 to Rate Schedule FERC No. 126 (Supersedes Supplement No. 1)	do	Rate Schedule WSD.
(37) Supplement No. 10 to Rate Schedule FERC No. 126	do	Rate Schedule WST.
(38) Supplement No. 3 to Rate Schedule FERC No. 127	Town of Rayne	Amendments to Agreement.
(39) Supplement No. 4 to Rate Schedule FERC No. 127 (Supersedes Supplement No. 1)	do	Rate Schedule WST.
(40) Supplement No. 5 to Rate Schedule FERC No. 127 (Supersedes Supplement No. 2)	Town of Rayne	Rate Schedule WSA.
(41) Supplement No. 11 to Rate Schedule FERC No. 128	Cajun Electric Power Coop., Inc	Amendments to Agreement.
(42) Supplement No. 12 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 7 as Supplemented).	do	Rate Schedule CSTS-GSU.
(43) Supplement No. 13 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 6 as Supplemented).	do	Rate Schedule CTS-GSU.
(44) Supplement No. 14 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 8 as Supplemented).	do	Rate Schedule CITS-GSU.
(45) Supplement No. 1 to Supplement No. 4 to Rate Schedule FERC No. 129	Sam Rayburn Dam Electric Coop., Inc. (City of Liberty).	Amendments to Agreement.
(46) Supplement No. 2 to Supplement No. 4 to Rate Schedule FERC No. 129	do	Rate Schedule WST.
(47) Supplement No. 5 to Rate Schedule FERC No. 129	Sam Rayburn Dam Electric Coop., Inc	Amendments to Agreement.
(48) Supplement No. 6 to Rate Schedule FERC No. 129	do	Rate Schedule WSD.
(49) Supplement No. 7 to Rate Schedule FERC No. 130	do	Rate Schedule WST.
(50) Supplement No. 3 to Rate Schedule FERC No. 130	do	Amendments to Agreement.
(51) Supplement No. 4 to Rate Schedule FERC No. 130	do	Rate Schedule SRTS-GSU.
(52) Supplement No. 5 to Rate Schedule FERC No. 130	do	Rate Schedule SRSTS-GSU.
(53) Supplement No. 3 to Rate Schedule FERC No. 134	Town of Plaquemine	Amendments to Agreement.
(54) Supplement No. 4 to Rate Schedule FERC No. 134 (Supersedes Rate Schedule WSM).	do	Rate Schedule WST.
(55) Supplement No. 5 to Rate Schedule FERC No. 134 (Supersedes Supplement No. 2)	do	Rate Schedule WSB.

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[Docket No. ER82-79-000]

Ohio Edison Co.; Order Granting Motion To Collect Interim Rates

Issued: July 9, 1982.

On June 9, 1982, Ohio Edison Company (Ohio Edison) filed a unilateral motion seeking Commission authorization to impose interim rates [1] lower than the rates it proposed in its November 9, 1981 filing in this docket.[2] These interim rates are proposed to become effective, subject to refund, as of June 9, 1982.[3] Ohio Edison requests the interim rates in order to reduce its potential refund obligation which will accrue during the period between June 9, 1982, and the date of final Commission acceptance of Ohio Edison's ultimate "compliance filing" in this proceeding. Ohio Edison further requests permission to collect the interim rates without prejudice to its ability (1) to continue to seek the full amount of the increase reflected in the originally filed rates, and (2) to conform its rates to a future initial decision in the cost of service phase of this proceeding, by increasing the interim rates, consistent with such an initial decision, up to levels originally

[1] *See* Attachment A for rate schedule designations.

[2] The November 1, 1981 filing involved a rate increase applicable to Ohio Edison's contract for service with the City of Oberlin, Ohio, and increased rates applicable to its contracts for partial requirements service to twenty other municipal wholesale customers. The proposed rates would produce approximately $61 million in annual revenues for the 12 months ending December 31, 1982.

[3] By order issued January 8, 1982, in this docket, the Commission suspendded the originally filed rates for five months to become effective on June 9, 1982, subject to refund.

permitted to become effective on June 9, 1982, by the Commission's January 8, 1982 order. Any future increase in the proposed interim rate levels would be prospective only and subject to refund pending final Commission action in this docket.

Under the circumstances, we believe that the public interest will be served by granting the motion. Although the offer to impose interim rates has been made unilaterally by Ohio Edison, it appears that the proposal will provide immediate benefits by reducing rates to the affected customers and limiting the company's potential refund liability. Furthermore, we perceive no potential detriment to Ohio Edison's customers inasmuch as *any* future increase from the interim rate level (whether to conform to an initial decision or to the Commission's ultimate decision in this case) will become effective prospectively only. While the company has reserved the option of attempting to justify its full rate increase proposal, it has further agreed not to increase the interim rate level retroactively in any event; thus, no possibility of a subsequent surcharge exists.

Pursuant to §§ 35.1(e) and 35.11 of the Commission's regulations, we find that good cause exists to permit the collection of the interim rates (subject to refund) as of June 9, 1982. This order, however, shall be without prejudice to our subsequent determination on the merits of Ohio Edison's rates.

The Commission orders:

(A) The motion filed by Ohio Edison Company on June 9, 1982, requsting permission for Ohio Edison to collect proposed interim rates, is hereby granted.

(B) Good cause having been shown, Ohio Edison is hereby authorized, pursuant to §§ 35.1(e) and 35.11 of the Commission's regulations, to collect, subject to refund, the proposed rates reflected in its motion of June 9, 1982, as of June 9, 1982. The interim rate may subsequently be increased prospectively as explained in the body of this order.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

OHIO EDISON CO., INTERIM RATES, DOCKET NO. ER82-79-000

[Rate Schedule Designations]

Designation	Description
FERC Electric Tariff, Original Volume No. 1:	
(1) 4th Revised Sheet No. 18 (Supersedes 3rd Revised Sheet No. 18).	Municipal Resale Service Partial Requirements—Sheet 1 of 4; Sheet 2 of 4.
(2) 4th Revised Sheet No. 19 (Supersedes 3rd Revised Sheet No. 19).	Sheet 3 of 4.
(3) 4th Revised Sheet No. 20 (Supersedes 3rd Revised Sheet No. 20).	Sheet 3 of 4.
(4) 4th Revised Sheet No. 21 (Supersedes 3rd Revised Sheet No. 21).	Sheet 4 of 4.
(5) Supplement No. 6 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 5).	City of Oberlin Rate Schedule—(Sheets 1-3).

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ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59090B; TSH-FRL-2171-1]

Substituted Benzene; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-22) under section 5 of the Toxic Substances Control Act (TSCA) on May 25, 1982. Notice of receipt of the application was published in the **Federal Register** of June 4, 1982 (47 FR 24407). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, D.C. 20460 (202-755-9190).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 25, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-22. The company claimed its identity, the specific chemical identity, the specific use, environmental release and disposal, exposure and production volume of the new substance as confidential business information. The generic name of the new substance is substituted benzene, and it will be used as an intermediate in the manufacture of another chemical. The test marketing period is not to exceed 1 year. A notice published in the **Federal Register** of June 4, 1982 (47 FR 24407) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-22, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. The health concerns for the TME substance are low. There are moderate environmental concerns based on structurally similar chemicals that produce detrimental ecological effects. However, these concerns are mitigated for reasons which the company is claiming as confidential business information.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 1 year commencing on the date of signature of this notice by the Assistant Administrator for Pesticides and Toxic Substances.

4. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: July 2, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-19148 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59090A; TSH-FRL-2171-2]

Substituted Benzene Compound; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-21) under section 5 of the Toxic Substances Control Act (TSCA) on May 24, 1982. Notice of receipt of the application was published in the **Federal Register** of June 4, 1982 (47 FR 24407). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-755-9190).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 24, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-21. The company claimed its identity, the specific chemical identity, the specific use, environmental release and disposal, exposure and production volume of the new substance as confidential business information. The generic name of the new substance is substituted benzene compound, and it will be used as in intermediate in the manufacture of another chemical. The test marketing period is not to exceed 1 year. A notice published in the **Federal Register** of June 4, 1982 (47 FR 24407) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-21, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. There are moderate health concerns for the TME substance. However, any risks to workers would be mitigated since manufacture will take place under controlled conditions resulting in low exposure.

EPA has environmental concerns based on the similarity to other chemicals that produce adverse effects to many environmental species. However, these concerns are mitigated for reasons which the company is claiming as confidential business information.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is grantd solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 1 year commencing on the date of signature of this notice by the Assistant Administrator for Pesticides and Toxic Substances.

4. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

5. Manufacturing procedures outlined in the application must be followed.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: July 2, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

FR Doc. 82-19147 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-5-MI-3]

The Michigan Emergency Preparedness Plan Site-Specific to the Palisades Nuclear Power Station

ACTION: Certification of FEMA Findings and Determination

In accordance with FEMA Rule 44 CFR 350 (proposed) on February 26, 1981, the State of Michigan submitted its plans relating to the Palisades Nuclear

Power Station to the Director of FEMA Region V for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed Rule. Included in this evaluation were a review of the State and local plans around the Palisades facility; an evaluation of the exercise conducted on December 9, 1980, in accordance with § 350.9; and a report of the public meeting held on December 10, 1980, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed Rule. In the latest Palisades joint exercise conducted on February 23, 1982, it was demonstrated that the remaining outstanding deficiencies were corrected with the exception of the prompt alerting and notification systems.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Palisades Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken off-site in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA Criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the state and localities associated with the Palisades Nuclear Power Station in accordance with Section 350.13 of the proposed Rule.

For further details with respect to this action, refer to Docket File FEMA–REP–5–MI–3 maintained by the Regional Director, FEMA Region V at the Federal Center, Battle Creek, Michigan 49016.

Dated: July 2, 1982.

For the Federal Emergency Management Agency.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–19155 Filed 7–14–82; 8:45 am]

BILLING CODE 6718–01–M

[Docket No. FEMA–REP–6–TX–1]

Texas; Radiological Emergency Preparedness Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plans.

SUMMARY: This is a notice that the State of Texas has submitted Radiological Emergency Preparedness Plans to the Federal Emergency Management Agency, Region VI for review and approval. These plans consist of the basic Texas State Emergency Management Plan, the Texas Department of Health's Annex L, the Bureau of Radiation Control's Appendix 7 and the local government plans for Hood and Somervell Counties.

DATE PLANS RECEIVED: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Stephens, Regional Director, FEMA Region VI, Federal Center, Denton, Texas 76201—(817) 387–5811.

NOTICE: This provides notice in accordance with 44 CFR Part 350.8 of the FEMA Proposed Rule, "Review and Approval of State and Local Radiological Emergency Plans and Preparedness," 44 FR 42341, that the Federal Emergency Management Agency, Region VI Office, received on June 17, 1982, from the State of Texas, Radiological Emergency Preparedness Plans for the State of Texas.

These plans include the basic Texas State Emergency Management Plan, the Texas Department of Health's Annex L, the Bureau of Radiation Control's Appendix 7 entitled Radiological Emergency Response, Tab 1, entitled, "Fixed Nuclear Facility Accidents," Chapter 1 entitled, "Comanche Peak Steam Electric Station (CPSES)," along with Hood and Somervell County Emergency Operations Plans. Copies of these plans are available for review and copying at the FEMA Region VI Office. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests. This schedule which covers exemptions from the fee, is set forth in subpart C of 44 CFR Part 5. Reproduction fees are $0.10 a page for this document. There are approximately 688 pages in the documents, excluding procedures. (As the cost will be over $25.00, the fee is to be paid in advance.)

Comments regarding the plans may be submitted in writing to Mr. Jerry Stephens, Regional Director, at the above address within thirty days.

FEMA Proposed Regulation 44 CFR 350.10 calls for a Public Meeting in advance of FEMA approval of a plan. A Public Meeting will be conducted in Hood and/or Somervell County in advance of FEMA approval of the plan.

R. Dell Greer,

Acting Regional Director.

June 21, 1982.

[FR Doc. 82–19170 Filed 7–14–82; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. 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 may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bancorporation of Ohio,* Akron, Ohio; to acquire 100 percent of the voting shares or assets of The Twinsburg Banking Company, Twinsburg, Ohio. Comments on this application must be received not later than August 8, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Missouri Banks, Inc.,* Manchester, Missouri; to acquire 100 percent of the voting shares or assets of First Missouri Bank, N.A., St. Louis County, Missouri, a *de novo* bank. Comments on this application must be received not later than August 8, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19108 Filed 7–14–82; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views 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 interest, or unsound banking practices." Any comments on an application that requests a hearing must include 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 that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York (financing and insurance activities; Texas): To engage through its subsidiary, Sunamerica Corporation, in generating and servicing loans and other extensions of credit; making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to businesses; making or acquiring extensions of credit secured by personal property lease contracts; acting as an agent for the sale of credit related life and accident and health term insurance and mortgage life, mortgage disability, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from offices in Irving, Texas, serving the state of Texas. Comments on this application must be received not later than August 7, 1982.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; California): To expand the service areas of four offices of Citicorp Person-to-Person Financial Center, Inc. The previously approved activities of these offices are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. and to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service areas of all four offices for their previously approved activities shall be comprised of the entire state of California. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. The aforementioned activities will be conducted from offices in Chula Vista, Escondido, San Diego, and El Cajon, California. Comments on this application must be received not later than August 7, 1982.

3. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; California) To expand the service area of an existing office of Citicorp Person-to-Person Financial Center, Inc., located in San Diego, California. The previously approved activities of the office are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extensions of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., and to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service area for the previously approved activities shall be comprised of the entire State of California. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. Comments on this application must be received not later than August 7, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Olsson's Inc.,* Ronan, Montana (financing activities; Montana): To engage in making loans to its stockholders. This activity would be conducted from an office in Ronan, Montana, serving Lake County, Montana. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19104 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. 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 may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Commercial Bancshares, Inc.*, West Liberty, Kentucky; to become a bank holding company by acquiring at least 80.8 percent of the voting shares of Commercial Bank, West Liberty, Kentucky. Comments on this application must be received not later than August 3, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *F.C.B., Inc., Alachua, Florida;* to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Alachua, Alachua, Florida. Comments on this application must be received not later than August 3, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Treynor Bancshares, Inc.*, Treynor, Iowa; to become a bank holding company by acquiring at least 87 percent of the voting shares of Treynor State Bank, Treynor, Iowa. Comments on this application must be received not later than August 5, 1982.

D. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Salem Arkansas Bancshares Corporation*, Salem, Arkansas; to become a bank holding company by acquiring 84 percent of the voting shares of Bank of Salem, Salem, Arkansas. Comments on this application must be received not later than August 5, 1982.

E. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Bancshares, Inc.*, Dunseith, North Dakota; to become a bank holding company by acquiring 100 percent of the shares of Security State Bank, Dunseith, North Dakota. Comments on this application must be received not later than August 5, 1982.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Celeste Bancshares, Inc.*, Celeste, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Celeste, Celeste, Texas. Comments on this application must be received not later than August 5, 1982.

G. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551

1. *Sonny Wright*, on behalf of a corporation to be formed pursuant to the laws of the State of Florida, Miami, Florida; to become a bank holding company by acquiring 95 percent of the voting shares of Peoples National Bank of Commerce, Miami, Florida. This application may be inspected at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than August 5, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19052 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. 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 may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 3003:

1. *F. C. B. Holding Company*, Orlando, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Florida Center Bank, Orlando, Florida. Comments on this application must be received not later than August 8, 1982.

2. *PAB Bankshares, Inc.*, Valdosta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Park Avenue Bank, Valdosta, Georgia. Comments on this application must be received not later than August 8, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Farmers & Merchants Bancshares, Inc.*, Beach, North Dakota to become a bank holding company by acquiring at least 89.1 percent of the voting shares of Farmers & Merchants Bank, Beach, North Dakota. Comments on this application must be received not later than August 8, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cripple Creek Bancorporation, Inc.*, Cripple Creek, Colorado; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Cripple Creek, Cripple Creek, Colorado. Comments on this application must be received not later than August 8, 1982.

2. *Lexington Bancshares, Inc.*, Lexington, Nebraska; to become a bank holding company by acquiring at least 90 percent of the voting shares of Lexington State Bank and Trust Company, Lexington, Nebraska. Comments on this application must be received not later than August 8, 1982.

3. *Worland Holding Company*, Worland, Wyoming; to become a bank holding company by acquiring 95 percent of the voting shares of The First National Bank in Worland, Worland, Wyoming. Comments on this application must be received not later than August 8, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Canton Bancshares, Inc.*, Canton, South Dakota; to become a bank holding company by acquiring 80 percent or more of the voting shares of First American Bank, Canton, South Dakota. This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than August 8, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19107 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in

an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views 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 interest, or unsound banking practices." Any comment on an application that requests a hearing must include 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 that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

1. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Florida): This notice corrects a previous Federal Register document (FR Doc. 82–17593) published on page 28458 of the issue for Wednesday June 30, 1982. Applicant also proposes to engage in the activity of extensions of credit to individuals secured by liens on residential or non-residential real estate and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans.

Correction

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Oklahoma): This notice corrects a previous Federal Register document (FR Doc. 82–17593) published on page 28458 of the issue for Wednesday June 30, 1982. Applicant proposes to engage in the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; Pennsylvania): To engage through its subsidiaries, Security Pacific Consumer Discount Company and Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from offices of Security Pacific Consumer Discount Company and Security Pacific Finance Corp. located in Pittsburgh, Pennsylvania, serving the State of Pennsylvania and would constitute a relocation of existing offices of Security Pacific Consumer Discount Company and Security Pacific Finance Corp. which are currently located in Coraopolis, Pennsylvania. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19106 Filed 7–14–82; 8:45 am]

BILLING CODE 6210–01–M

Tekamah Agency Co.; Proposed Acquisition of Wagner Data Center, Inc.

Tekamah Agency Company, Tekamah, Nebraska, has applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1842(c)(8) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Wagner Data Center, Inc., Schuyler, Nebraska.

Applicant states that the proposed subsidiary would engage in data processing activities. These activities would be performed from offices of Applicant's subsidiary in Schuyler, Nebraska, and the geographic areas to be served are Schuyler, Colfax County, Nebraska. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19105 Filed 7–14–82; 8:45 am]

BILLING CODE 6210–01–M

[Docket No. R–0375]

Regulation Y; Bank Holding Companies and Change in Bank Control; Futures Commission Merchant Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Withdrawal of proposal.

SUMMARY: The Board of Governors of the Federal Reserve System has decided not to amend Regulation Y so as to include certain futures commission merchant activities on the list of permissible bank holding company activities.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Paul R. Schweitzer, Director, Nonbank Activities, (202/452–2918), Division of Research and Statistics; Sidney M. Sussan, Assistant Director, (202/452–2818), Division of Banking Supervision and Regulation; Carl V. Howard, Senior Counsel, (202/452–3786), Legal Division;

Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on December 10, 1981 (46 FR 60503 (1981)), the Board Requested comment, in connection with an application filed by J. P. Morgan & Co. Incorporated, New York, New York ("Morgan"), pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), on whether to add to the list of activities that the Board has determined to be closely related to banking or managing or controlling banks (12 CFR 225.4(a)) the activity of engaging as a futures commission merchant (an "FCM") in the execution and clearance on major commodity exchanges of futures contracts covering bullion, foreign exchange, U.S. Government securities, and money market instruments.

List of Subjects in 12 CFR Part 225

Banks, banking; Holding companies; Reporting requirements; Securities.

By Order dated July 1, 1982, the Board approved Morgan's application to engage in the proposed FCM activities. In connection with its action on Morgan's application, the Board decided not to add these activities to the list of permissible bank holding company activities in the Board's Regulation Y at this time, but to proceed with applications in this area on a case-by-case basis.

By order of the Board of Governors, effective July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19178 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Philip Morris, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Philip Morris, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Southern Gold Citrus Products, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580; (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19163 Filed 7-14-82; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 149]

The New England Telephone & Telegraph Co. and The Commonwealth of Massachusetts Department of Public Utilities; Proposed Intervention in Telecommunications Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before The Commonwealth of Massachusetts Department of Public Utilities concerning the application of the The New England Telephone and Telegraph Company for revisions in intrastate Private Line rates. GSA represents the interests of the executive agencies of the U.S. Government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Charles V. Curcio, Assistant General Counsel, Automated Data & Telecommunications Service, General Services Administration, Washington, D.C. (mailing address: General Services Administration (LX), 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-1156, on or before August 16, 1982, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: July 8, 1982.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 82-19233 Filed 7-14-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Departmental Decision To Apply Pub. L. 96-517 to Inventions Made Under Grants and Contracts Funded Prior to July 1, 1981

Notice is hereby given of the Department's decision to make Pub. L. 96-517 applicable to inventions made in performance of grants and contracts initially funded prior to July 1, 1981.

The new patent law gives nonprofit organizations and small business firms a first option to take ownership of inventions developed under Department of Health and Human Services grants, contracts, and cooperative agreements, initially funded *after* July 1, 1981. OMB Bulletin 81-22, superseded by Circular A-124, gives the Department the option of applying the new law to inventions made after July 1, 1981, in the performance of grants, contracts, and cooperative agreements initially funded *before* July 1, 1981.

Accordingly, the provisions of Pub. L. 96-517 are to be applied to all inventions made after July 1, 1981, in performance of Department grants, contracts, and cooperative agreements irrespective of the date of the funding agreement.

Dated: July 9, 1982.

(5 U.S.C. 301; 42 U.S.C. 241)

James F. Dickson III,

Acting Assistant Secretary for Health.

[FR Doc. 82-19132 Filed 7-14-82; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8104, et al.]

Alaska; Final Allocations Pursuant to Section 12(b) and Section 12(c) of the Alaska Native Claims Settlement Act

Sections 12(b) and 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1611) (ANCSA), contain certain formulas to be used in allocating acreage to 11 of the 12 regional corporations. (The regional corporation for Southeast is excluded from the Sec. 12(b) and Sec. 12(c) allocations.)

Section 12(b) requires the Secretary to allocate to the 11 regions the difference between 22 million acres and the total Sec. 12(a) village entitlement. The allocation among the regional corporations is based on the number of Natives enrolled to each region.

Section 12(c) entitlement is based on the acreage allocation pursuant to Secs. 12(a), 12(b) and 16 and the geographic size of each region. A decision was issued on February 2, 1977, which finalized the regional land boundaries and size of each of the eleven regions for the purpose of determining Sec. 12(c) allocations.

The decision of January 19, 1977, as amended by the decision of October 31, 1978, finalized the number of Natives enrolled to each region. (**Federal Register**, Vol. 42, No. 22, pages 6419 to 6432 and **Federal Register**, Vol. 43, No. 221, page 53062). These decisions also finalized village eligibility and Sec. 12(a) entitlement. Eleven villages filed litigation concerning village eligibility. The litigation has been resolved thus enabling the final Sec. 12(b) and Sec. 12(c) entitlements to be determined.

The following table shows the final Sec. 12(b) and 12(c) entitlements[1] for each region:

	Sec. 12(a) entitlement[1]	Sec. 12(b) entitlement	Sec. 12(c) entitlement
AHTNA, Inc	681,200	46,224.62	992,030.93
The Aleut Corp	1,221,120	142,532.98	0
Arctic Slope Regional Corp	852,480	165,857.33	4,011,728.72
Bering Straits Native Corp	1,620,160	293,420.32	0
Bristol Bay Native Corp	2,718,720	234,303.70	0
Calista Corp	5,644,800	579,131.93	0
Chugach Natives, Inc	460,800	89,311.06	338,665.08
Cook Inlet Region, Inc	668,160	266,194.44	1,324,472.71
Doyon, Ltd	3,248,640	392,018.71	8,356,571.96
Koniag Inc., Regional Native Corp	923,520	116,755.63	0
NANA Regional Corp	1,198,080	208,392.46	746,130.60

[1]The actual acreage conveyed may be different from the final entitlement because of special legislation, exchanges, etc.

[1]Total Sec. 12(a) entitlement for each region is listed for informational purposes only.

This decision is being published once in the **Federal Register**.

Should you disagree with the final allocations given by this decision you may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 16, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, a copy of the notice of appeal must be served on each of the regional corporations listed in attachment 1.

Curtis V. McVee,

State Director.

Attachment No. 1

AHTNA, Inc., Drawer G, Copper Center, Alaska 99573
The Aleut Corporation, 2550 Denali Street, Anchorage, Alaska 99503
Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723
Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99752
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501
Chugach Natives, Inc., 903 West Northern Lights Blvd., Anchorage, Alaska 99503
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701
Koniag, Inc., P.O. Box 746, Kodiak, Alaska 99615
NANA Regional Corporation, P.O. Box 49, Kotzebue, Alaska 99752

[FR Doc. 82–19175 Filed 7–14–82; 8:45 am]
BILLING CODE 4310–02–M

[ES 11109]

Coal Lease Offering by Sealed Bid

Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Notice is hereby given that certain coal resources in the land described below in Gallatin County, Illinois will be offered for competitive lease by sealed bid followed by oral bids which shall begin at the level of the highest sealed bid in $5.00 increments in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). Pursuant to the regulations of 43 CFR 3422.3–1, only those submitting sealed bids may offer oral bids, and ⅛ of the total bonus bid must be tendered at the time of sale. The sale will be held at 2:00 p.m. July 30, 1982, at the Conference Room of the Eastern States Office. All bids must be submitted to BLM, Eastern States Offices, 350 South Pickett Street, Alexandria, Virginia, 22304. No bids received after July 30, 1982 will be considered.

Coal Offered

The coal resource to be offered is to be mined underground from the Harrisburg No. 5 seam in the following lands located in Shawnee National Forest, Gallatin County, Illinois.

T. 10 S., R. 9 E., 3rd Principal Meridian
Gallatin County, Illinois
Section 13, W½E½, E½W½, W½SW¼;
Section 14, SE¼NE¼;
Section 21, SW¼SE¼, E½SE¼;
Section 23, NW¼SW¼;
Section 27, SW¼NE¼, W½NW¼NE¼, that part of the NW¼ and the NE¼SW¼ lying north and east of the Saline River;
Section 28, NE¼NE¼.
Containing 845.51 acres.

Resources have been calculated for underground mining. Recoverable reserves are estimated to be 1,816,000 tons. The coal should average 12,368 Btu/lb., 10.16 percent ash, moisture content of 6.83 percent, and sulfur content of approximately 2.69 percent.

The minimum sealed bid shall be $25.00 or more per acre.

Jeff O. Holdren,
Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19039 Filed 7-14-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 11304]

Oregon; Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82-10371, appearing on page 16420, in the issue of Friday, April 16, 1982, and corrected at page 22161, in the issue of Tuesday, May 25, 1982, the first line of Section 15 should read: "Sec. 15, NE¼, E½NW¼, E½W½NW¼, and ".

BILLING CODE 1505-01-M

Land Exchange Proposal and Comment Period

July 9, 1982.

ACTION: Notice of Land Exchange Proposal and Comment Period (M-55145).

SUMMARY: Notice is hereby given that B-6, Inc. of Billings, Montana has proposed to exchange deeded lands in Custer and Rosebud counties for public lands in Custer County. This exchange, if consumated, will be for surface rights only, subsurface rights will remain with the present owners. The proposal was filed pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716) and the Exchange Regulations contained in 43 CFR Part 2200.

The subject lands are located approximately 30 miles northwest of Miles City, Montana. One section of public land is approximately 40 miles east of Miles City.

The public lands involved are:

T. 12 N., R. 45 E.,
Sec. 14, W½ NW¼, SW¼, S½SE¼;
Sec. 22, W½W½;
Sec. 24, N½;
Sec. 26, W½.
T. 12 N., R. 46 E.,
Sec. 30, lots 1, 2, 3, 4, E½, E½NW¼, SE¼SW¼.
T. 8 N., R. 52 E.,
Sec. 30, lots 1, 2, 3, 4, E½, E½W½.

in exchange for the following described deeded land:

T. 12 N., R. 44 E.,
Sec. 12, all.
T. 12 N., R. 45 E.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, E½W½;
Sec. 8, S½;
Sec. 18, NE¼, N½SE¼, SE¼SE¼.

The purpose of this notice is to inform the public of the proposed exchange.

Comment Period: Any interested persons desiring to express their views or furnish any information about this proposal should contact the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. All comments should be in writing within 30 days after the date of this publication.

Ray Brubaker,
District Manager.

[FR Doc. 82-19136 Filed 7-13-82; 8:45 am]
BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board Meeting

July 8, 1982.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Advisory Board will be held August 18, 1982. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District, Bureau of Land Management Office, Highway 10-12 at Garyowen Road, Miles City, Montana.

The agenda is as follows:

1. Range Maintenance Survey Response.
2. Fiscal Year 1983 Range Budget.
3. Current Resource Management Programs Affecting Range.

The meeting is open to the public. The public may make oral statements before the Grazing Advisory Board or file written statements for the board's consideration. Depending upon the number or persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,
District Manager.

[FR Doc. 82-19135 Filed 7-14-82; 8:45 am]
BILLING CODE 4310-84-M

[M 55077]

Montana; Realty Action; Modified Competitive Sale of Public Land in Carter County, Montana

July 7, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 2 S., R. 62 E.,
Sec. 18, SW¼NE¼SE¼SW¼, N½N½SE¼.
The area described contains 42.50 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Long Pine Hereford Ranches, Inc., c/o George Blair, the owner of the surrounding private land and the proposed designated bidder, will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 14 miles south of Mill Iron, Montana, and 3 miles west of the South Dakota state line. The land is isolated, with no legal access, is unusable by the general public, and is difficult and uneconomic to manage as part of the public lands system. The subject land has no unique values and has historically been used for livestock grazing. The sale, if consummated, will resolve this unauthorized use.

The proposed sale is consistent with the Bureau's planning system and Carter County government officials have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Miles City District Office, west of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Carter County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on Wednesday, October 6, 1982, at 10 a.m.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state or the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,250 and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on October 6, 1982. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55077

October 6, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Long Pine Hereford Ranches, Inc., c/o Mr. George Blair, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Bill D. Noble,

Acting State Director.

[FR Doc. 82-19139 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Noncompetitive Sale of Public Lands in Socorro County, New Mexico

June 25, 1982.

The following lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at current market value to the purchasers shown.

Legal Description, Acreage, and Purchaser; New Mexico Principal Meridian, New Mexico:

T. 1 S., R. 1 W., NMPM

Section 24: Lot 16, containing 2.70 acres; Fabiola, Robert and William Rawlins, 1020 Los Arboles NW, Albuquerque, New Mexico 87107.

T. 1 S., R. 1 W., NMPM

Section 23: Lot 38, containing 1.25 acres; Mary Ann Ulibarri, 3911 Alta Monte NE. Albuquerque, New Mexico 87110.

T. 1 S., R. 1 W., NMPM

Section 35: Lot 13, containing .003 acre; Bobby Ray McKinley, P.O. Box 57, Socorro, New Mexico 87801.

T. 2 S., R. 1 W., NMPM

Section 13: Portions of Lots 17, 18, and 47 of the February 1980 survey, containing approximately 1.09 acres; Gerald S. O'Neal, Box 1366, Socorro, New Mexico 87801.

T. 1 S., R. 1 W., NMPM

Section 22: Lot 2, containing .34 acre;

Section 23: Lot 26 containing .71 acre, Lot 27, containing .21 acre; Michael S. Sarracino, 801 Caine NW, Socorro, New Mexico 87801.

T. 1 S., R. 1 W., NMPM

Section 13: Lot 11, containing 4.71 acres; Middle Rio Grande Conservancy District, 1930 2nd SW, Albuquerque, New Mexico 87102.

T. 2 S., R. 1 W., NMPM

Section 2: Lot 42, containing 1.57 acres; Emile Kiehne and Sons, Inc., P.O. Box 167, Reserve, New Mexico 87830.

T. 2 S., R. 1 W., NMPM

Section 2: Lot 27, containing .13 acre; Rex and Sheila Gardner, P.O. Box 41, Lemitar, New Mexico 87823.

T. 2 S., R. 1 W., NMPM

Section 2: Portion of Tract 39 of the February 1980 survey, containing approximately .57 acre; William and Charlene West, Jr., General Delivery, Lemitar, New Mexico 87823.

T. 2 S., R. 1 W., NMPM

Section 2: Portion of Tract 39 of the February 1980 survey, containing approximately .08 acre; Frank Chavez, Jr., P.O. Box 943, Socorro, New Mexico 87801.

The above described lands are being offered as direct non-competitive sales to the purchasers, who are the current occupants of the lands.

The sales are consistent with the Bureau's land use planning. The public interest will best be served by granting patents to current occupants of the lands. The current use is the highest and best use for the lands. The lands will not be offered for sale for at least 60 days after the date of this notice.

Patents, when issued, will be subject to existing access road rights-of-way and easements and to the following:

The patents will be issued recognizing that they lie within a floodplain and as such the patentees or their successors will be limited by section 3(d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the United States or its agencies in the event existing or future facilities on the patents are damaged by floods.

Reservations to the United States will be made in the patents as follows:

1. A right-of-way thereon for ditches or canals constructed by authority of the United States.

2. All the geothermal steam and associated geothermal resources as to land so patented, and to it, or persons

authorized by it, the right to prospect for, mine and remove such deposits, upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1970 (94 Stat. 1566).

3. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law.

Detailed information concerning the sales is available for review at the Bureau of Land Management, Socorro District Office, 198 Neel Avenue, Socorro, New Mexico.

For a period of 45 days, interested parties may submit comments to the District Manager of the Socorro District. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

The required payment, at fair market value, shall then be requested of the purchasers. The payment is in accordance with 43 CFR 1822.1–2.

July 6, 1982.

Edward C. Roberts,

Acting District Manager.

[FR Doc. 82–19137 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

[M 53205–B(SD)]

South Dakota; Classification of Public Lands for State Indemnity Selection

July 9, 1982.

1. Notice of a proposal to classify certain public lands in Custer, Harding, Jackson, Lawrence, Lyman, and Perkins Counties, South Dakota, for State Indemnity Selection pursuant to an application filed by South Dakota's Commissioner of School and Public Lands was published in the Federal Register as FR Doc. 82–6700 appearing on pages 10914 and 10915 in the issue of Friday, March 12, 1982. The notice was also distributed to governmental officials and those individuals and corporations using or having a possible interest in disposal of the lands. Comments on the proposal were considered to be neither supportive nor nonsupportive of the classification.

2. The lands included in the notice were examined and found suitable for transfer to the State under the provisions of sections 2275 and 2276 of the Revised Statutes as amended, 43 U.S.C. 851, 852 (1976) subject to the limitation of the States selection entitlement. Accordingly they are hereby classified for that purpose pursuant to Sec. 7 of the Act of June 28, 1934, as amended, 43 U.S.C. 315(f)(1976).

3. The lands included in this classification are described as follows:

Black Hills Meridian

T. 4 N., R. 3 E.,
Sec. 5, Tract 43.
T. 18 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NW¼;
Sec. 22, SW¼NW¼.
T. 20 N., R. 7 E.,
Sec. 1, Lot 2.
T. 20 N., R. 10 E.,
Sec. 5, Lot 4;
Sec. 35, NE¼NW¼.
T. 17 N., R. 11 E.,
Sec. 6, Lot 5.
T. 20 N., R. 11 E.,
Sec. 25, NW¼SE¼;
Sec. 34, SE¼SE¼.
T. 14 N., R. 12 E.,
Sec. 14, NE¼SE¼;
Sec. 19, SE¼NE¼ and NE¼SE¼;
Sec. 24, SW¼SE¼.
T. 15 N., R. 12 E.,
Sec. 25, W½SW¼;
Sec. 26, NW¼SE¼;
Sec. 35, E½SE¼.
T. 16 N., R. 12 E.,
Sec. 4, NW¼SE¼.
T. 16 N., R. 13 E.,
Sec. 35, SW¼SW¼.
T. 17 N., R. 13 E.,
Sec. 35, NW¼NW¼.
T. 16 N., R. 14 E.,
Sec. 13, NE¼NE¼;
Sec. 34, NW¼NE¼;
Sec. 35, NE¼SE¼.
T. 16 N., R. 15 E.,
Sec. 3, SE¼SW¼.
T. 19 N., R. 17 E.,
Sec. 2, Lots 1 and 2;
Sec. 10, NW¼SW¼ and SW¼SE¼.
T. 2 S., R. 17 E.,
Sec. 29, E½W½NE¼ and W½SE¼NW¼.
T. 3 S., R. 7 E.,
Sec. 2, Lot 3.
T. 4 S., R. 7 E.,
Sec. 34, NE¼SE¼.
T. 4 S., R. 8 E.,
Sec. 26, SE¼NE¼.
T. 3 S., R. 22 E.,
Sec. 12, E½NE¼;
Sec. 17, SW¼NW¼;
Sec. 29, NW¼NW¼.
T. 2 S., R. 23 E.,
Sec. 33, S½SE¼.
T. 3 S., R. 23 E.,
Sec. 2, SE¼SW¼;
Sec. 3, SE¼SE¼.
T. 2 S., R. 24 E.,
Sec. 25, S½SE¼.

Total—1,901.25 Acres.

Fifth Principal Meridian

T. 103 N., R. 73 W.,
Sec. 5, Lot 1 and S½NE¼.
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE¼.
T. 103 N., R. 75 W.,
Sec. 22, Lot 4.

Total—188.70 acres.

Total M 53205–B(SD)—2,089.95 acres.

4. This classification meets the disposal criteria set forth in Title 43 of the Code of Federal Regulation, Part 2400. The lands are difficult and uneconomic to manage as part of the Public lands. They are not essential to any Bureau of Land Management project and are not required by any other Federal Agency. Transfer of these lands to the State will help fulfill the Federal Government's common school land grant to the State and constitute a public purpose use of the land.

5. Much of the lands is under grazing and/or oil and gas leases; the NE¼NE¼ of Section 13, T. 16 N., R. 14 E., B.H.M. contains an authorized range improvement reservoir and fence. The notice mentioned in paragraph 1 identified the authorized uses and specific tracts.

(a) The lands encumbered by grazing leases will not be certified to the State until 2 years has lapsed after the grazing lessee is notified that the lease will be canceled unless the lessee unconditionally waives the prior notification.

(b) A right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945, will be reserved in the lands in the Black Hills Meridian.

(c) Minerals will be transfered to the State. Oil and Gas leases in effect on the lands at the time of transfer will remain in full force and effect for the term of the leases. Lessees shall have the right to use so much of the surface of said lands as is required for operations under said leases without compensation to the State or its assignees for damages resulting from proper operations for the duration, and any authorized extension of the leases in accordance with Sec. 29 of the Act of February 25, 1920, 41 Stat. 347, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

If all the lands in an oil and gas lease are certified to the State, the State will succeed to the position of the United States under the lease, subject, however, to all obligations of the United States. No loss of lessees's rights will occur.

6. The grant of lands which will be made to the State is subject to the following terms and limitations required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–5.

(1) The grantee or its successor in interest shall comply with the terms and provisions of Title VI and requirements of the rules of the Secretary that the lands conveyed are used for the purpose granted, or for another purpose

involving the provisions of similar services or benefits.

(2) In the event of a violation by the grantee or successor in interest, the United States has the right to seek enforcement of the requirements of Title VI and the terms of the rules of the Secretary pursuant to Title VI.

(3) Upon request of the Secretary, the grantee agrees to post and maintain, on the property conveyed by this document, signs or posters bearing information concerning the applicability of Title VI to the area of facility granted. The posting on conveyed property is limited to areas of general visibility by the public.

(4) The terms and limitations contained in paragraphs (1) through (3) shall constitute a covenant running with the land, binding on the grantee and its successor in interest, for the period for which the land described in this list is used for the purpose intended by the grant, or for another purpose involving the provision of similar services or benefits.

7. The State of South Dakota shall inventory selected lands for archeological and historical sites prior to disposal or authorization of surface disturbing activities. Significant sites shall be protected or mitigated as determined by the South Dakota State Historic Preservation Officer.

8. Information concerning this classification may be obtained from the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, telephone 406–657–6291.

9. For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Bill D. Noble,

Acting State Director.

[FR Doc. 82-19138 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 3051]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on August 1, 1968 (33 FR 10950), 341,700.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 19764 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2460. The lands are located in Wallowa and Baker Counties, Oregon.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register.**

3. At 9:30 a.m., on August 20, 1982 subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws. All valid applications received at or prior to 9:30 a.m., on August 20, 1982 shall be considered as simultaneously filed at that time. Subject to the provisions of existing withdrawals, the lands have been and continue to be open to operation of the mining laws and minerals leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 7, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-19218 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Underground Coal Mine, Savery, Wyo.; Intent To Prepare an Environmental Impact Statement and Hold Public Meetings

AGENCY: Rawlins District, Bureau of Land Management, Department of the Interior.

ACTION: Prepare an environmental impact statement (EIS) and hold public scoping meetings for the Savery Preference Right Lease Application (PRLA) and the potential for coal development resulting from these PRLA's near Savery, in south central Wyoming.

SUMMARY: This EIS will analyze the impacts of developing an underground coal mine near Savery, Wyoming and also present the effects of a Bureau of Land Management (BLM) proposal to direct local development away from the Savery area. Specifically, BLM proposes that if it is determined that the applicant for the PRLA's is entitled to a coal lease, BLM will attempt to exchange the applicant's rights for coal bidding right's, minerals of equal value, or other equal-valued exchanges, or any other means available which would direct development away from the Savery area.

For additional information, contact Gene Kolkman, Bureau of Land Management, Rawlins District Office, Rawlins Wyoming (307) 324–7171.

Issues and Concerns: Environmental analyses conducted to date indicate the potential for significant environmental impacts and land use conflicts with BLM planning and state of Wyoming water development planning.

The environmental impacts include:

1. Between 8,000 and 9,000 people residing in the Little Snake River Valley where, presently, about 600 people live.

2. Directing population growth toward southern Carbon County, Wyoming and away from the existing population centers in the area, which conflicts with BLM planning.

3. Commercial and residential development and construction on crucial deer and elk winter ranges and on threatened and endangered species habitat.

4. The creation of a boom town which would be dependent on a single industry—coal—with a life expectancy of 30 to 40 years.

5. Construction of either a 40 to 60 mile railroad line or an electric generating facility supplemented by a highway system, into an area presently free of such disturbances.

6. Potentially significant impacts to both surface water and groundwater systems.

The public is encouraged to present their ideas on these issues as well as other issues and concerns which will be considered in the preparation of this EIS.

DATES: Public scoping meetings will be held in Rawlins and Baggs, Wyoming sometime during the first week of August 1982. Public notices in local newspapers and press releases will announce the specific locations, dates, and times of the public scoping meetings.

ADDRESS: Information and materials providing a description of the proposed action and alternatives are available for review at: Bureau of Land Management, Rawlins District Office, 1300 3rd Street, P.O. Box 670, Rawlins, WY 82301. Any person wishing to submit any issues, suggestions, or alternatives to the proposed action, should send them to the office listed above no later than August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, ATTN: Gene Kolkman, Rawlins District Office,

P.O. Box 670, Rawlins, WY 82301; Telephone: 307/324–7171.

David J. Walter,

District Manager.

[FR Doc. 82–19225 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

Area of Critical Environmental Concern/Research Natural Area Designation—Northern California Coast Range Preserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Public lands within the Northern California Coast Range Preserve are designated an Area of Critical Environmental Concern under authority of 43 CFR Part 1601 and a Research Natural Area under authority of 43 CFR Part 8223. The designated area encompasses 3,400 acres and is north of Branscomb, California, and generally northwest of Cahto Peak in Mendocino County.

The Northern California Coast Range Preserve is cooperatively managed by The Nature Conservancy and the Bureau of Land Management. Conservancy-owned lands within the Preserve total 3,900 acres.

The primary objective of preserve management is preservation of the undisturbed natural ecosystems included in the Preserve. Environmental education, research, and day-use recreation are permitted uses considered compatible with the primary objective. Incompatible uses that are prohibited include timber harvest, grazing, hunting, fishing, and off-road vehicle use. The public lands are designated closed to off-road vehicle use under authority of 43 CFR Part 8342.

ADDRESSES: A management plan has been prepared for the Preserve and is available for inspection at the Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482.

FOR FURTHER INFORMATION CONTACT: Stanley R. Whitmarsh, Recreation Planner, Bureau of Land Management, Ukiah District Office, 555 Leslie Street, P.O. Box 940, Ukiah, California, Telephone (707) 462–3873.

Dated: July 2, 1982.

Edwin G. Katlas,

Acting District Manager.

[FR Doc. 82–19228 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

[U–50722]

Emergency Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 1:30 p.m. MDT August 13, 1982, certain coal resources in the lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $2750.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in the 13th floor Conference Room of the University Club Building at 1:30 p.m. MDT August 13, 1982. At that time the sealed bids will be opened and read. No bids received after 1:00 p.m. MDT, August 13, 1982, will be considered.

Coal offered: The coal reserves to be offered consists of all seams available for underground mining in the following described land located approximately eleven miles east of Helper, Utah:

T. 13 S., R. 11 E., SLM, Utah,
Sec. 12, W½E½, E½W½;
Sec. 13, NW¼NE¼, NE¼NW¼.
Containing 400.00 acres

The estimated total recoverable underground reserves are 3,700,000 tons. The coal quality is as follows: Btu—12,500 per lb; Sulfur—approximately .5 percent and Ash—from 8 to 10 percent. The coal is located in two seams the Rock Canyon and the Gilson and is expected to average 10 and 5 feet thick respectively.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty to the United States.

Notice Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, University Club Building, Salt Lake City Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building.

Jens C. Jensen,

Chief, Division of Operations.

[FR Doc. 82–19227 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

Worland District Grazing Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 92–463, that a meeting of the Worland District Grazing Advisory Board will be held August 17, 1982. The meeting will consist of a field trip and tour of the Big Trails and Castle Gardens AMPs in the Washakie Resource Area.

The field trip will begin at the District Office, 1700 Robertson Avenue, Worland, Wyoming, at 9:00 a.m., August 17, 1982. Participants should bring their own lunch. The purpose of the tour is to observe allotment conditions, range improvements, and review the grazing systems. BLM personnel will also demonstrate past and present studies and monitoring procedures. The tour will end at approximately 5:00 p.m.

Paul M. Andrews,

District Manager.

[FR Doc. 82–19229 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Migratory Bird Hunting; Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice announces that representatives of the U.S. Fish and Wildlife Service will be in attendance at meetings of the Atlantic, Mississippi, Central, and Pacific Flyway Councils at the following times and locations.

DATES:

July 29–30, 1982—Atlantic Flyway Council, 8:30 a.m.

July 28–30, 1982—Mississippi Flyway Council, 9 a.m. and 8:30 a.m., respectively.

July 28–29, 1982—Central Flyway Council, 10:30 a.m. and 8 a.m., respectively.

July 28, 1982—Pacific Flyway Council, 1 p.m.

ADDRESSES: Council meetings will be held at the following locations: Atlantic Flyway Council, Charleston Sheraton, Charleston, SC.; Mississippi Flyway Council, Quality Inn, Mobile, AL.; Central Flyway Council, Four Seasons Motor Inn, Colorado Springs, CO.;

Pacific Flyway Council, Sahara Hilton, Reno, NV.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone AC 202–254–3207.

SUPPLEMENTARY INFORMATION: Flyway Councils are organizations of State conservation agencies which cooperate with the U.S. Fish and Wildlife Service and the Canadian Wildlife Service in migratory bird management and research programs. Although the U.S. Fish and Wildlife Service is not a member of these councils, it will be represented at the above meetings to facilitate discussions of various migratory bird management and research programs, many of which are conducted jointly with the Service.

Dated: July 12, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19142 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Outer Continental Shelf (OCS) Oil and Gas Information Program; Availability of Alaska Index—Second Edition

SUMMARY: The second edition of the Alaska Index to the Alaska OCS leasing regions has been published by the Minerals Management Service in cooperation with the Geological Survey, U.S. Department of the Interior.

The index follows the format of the first edition, and is a continuum of relevant lease sale data in the Alaska OCS region. This edition of the Alaska Index covers the period December 1980 to November 1981. Indexes are published annually.

The standard format presents detailed information on OCS mineral leasing activities and on the current 5-year OCS oil and gas leasing schedule process. Ongoing support programs of the Minerals Management Service, the Bureau of Land Management, and the Geological Survey are described along with information on State involvement in the leasing process. Appendixes include a directory of State and Federal OCS-related contacts, Federal depository libraries, and other general OCS-related information.

Future editions of the Alaska Index and other regional indexes will require significant revision due to the process changes in the Proposed Final 5-Year OCS Oil and Gas Leasing Schedule. Also, the programs, plans, and other relevant OCS lease sale information of the Bureau of Land Management and Geological Survey will have to be changed to reflect those functions applicable to the newly formed Minerals Management Service.

EFFECTIVE DATE: June 28, 1982.

ADDRESS: Copies of the Index may be obtained from the Office of OCS Information, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: David A. Nystrom, Chief, Office of OCS Information, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091 (703) 860–7166.

Robert L. Rioux,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 82-19237 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Texaco U.S.A., Unit Operator of the Eugene Island Block 205 Federal Unit Agreement No. 14–08–0001–8654, submitted on July 7, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 205 Federal Unit.

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 plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 9, 1982.

John L. Rankin,

Acting Minerals Management, Gulf of Mexico OCS Region.

[FR Doc. 82-19160 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-31-M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held August 24–26, 1982, in New Orleans, Louisiana. The agenda of the meeting is as follows:

August 24

8:00–9:00 a.m.: Registration
9:00–12:00 a.m.:
- A. Introduction to Information Transfer Meeting
- B. Streamlining and Update on Minerals Management Service
- C. Regional Studies Program Overview and Update
- D. Impact Statement Overview and Update

1:30–5:00 p.m.: Concurrent Sessions (Oil Spill Model; Southwest Florida Eco-systems; Offshore Fishing; Fates and Effects; Coastal Studies; Coastal Mapping)

August 25

8:00–12:00 a.m.: Concurrent Sessions (Physical Oceanography; Cultural Resources; Southwest Florida Topographic Features; Offshore Fishing; Oxygen Depletion on the OCS; Marine Studies)

1:30–5:00 p.m.: Concurrent Sessions (Physical Oceanography; Cultural Resources; Biological Stipulations; Fates and Effects; Marine Studies; Marine Mapping)

August 26

8:00–12:00 a.m.: General Summary Session of Information Transfer Meeting

1:30–5:00 p.m.:
- A. Comments on Draft Regional EIS, Proposed Sales No. 72/74/79
- B. Scoping for Proposed Sales No. 81/84
- C. New Business

The meeting will be held at the Royal Orleans Hotel, 621 St. Louis Street, New Orleans, Louisiana. All sessions are open to the public and interested persons may make oral or written presentations upon request. Such requests should be made not later than August 20 to Sydney H. Verinder, Gulf

of Mexico OCS Region, Minerals Management Service, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130, telephone number (504) 589–6541.

A taped transcript of all general sessions and complete summary minutes of the meeting will be available for public inspection at the above address not later than 60 days after the meeting.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service.

July 9, 1982.

[FR Doc. 82-19161 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

General Management Plan; Santa Monica Mountains National Recreation Area

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental impact statement and a general management plan for Santa Monica Mountains National Recreation Area. Copies of the final plan and record of decision are available at the following locations:

National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;

Santa Monica Mountains National Recreation Area, 22900 Ventura Blvd., Suite 140, Woodland Hills, CA 91364; and

National Park Service, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102.

The record of decision follows this notice.

Dated: July 6, 1982.

Howard H. Chapman,

Regional Director, National Park Service, Western Region.

National Park Service, Western Region, Santa Monica Mountains National Recreation Area; Record of Decision, General Management Plan

I. The Decision

The National Park Service has adopted a final General Management Plan (GMP) for the 150,000 acre Santa Monica Mountains National Recreation Area located in the city of Los Angeles and the counties of Los Angeles and Ventura, California. The plan provides the general direction for management and a conceptual framework for visitor use. It will guide National Park Service actions and relationships with other agencies and landowners for the next ten years.

The GMP is the result of information and comments gathered through field reconnaissance, literature review, and numerous meetings with agencies, organizations, and individuals with interest in the Santa Monica Mountains. Many of the proposed actions will require further levels of planning and environmental documentation before they can be implemented.

The final GMP and final Environmental Impact Statement was released to the public on May 7, 1982.

The major components of the plan are:

A. *Land Classification.* The land classification system recommends appropriate management strategies, goals and uses from a National Park Service viewpoint for all lands within the boundary based upon resource characteristics and sensitivities. Classes range from Research Natural Areas where uses are restricted with a maximum emphasis on preservation of resources, to Development and Urban Landscape Areas where a wide variety of uses and development is appropriate. Much of the mountains (50 percent) is classified as Scenic and Resource Oriented Recreation Area where protection of views and rural landscapes are emphasized but where a variety of recreational and rural residential uses are also appropriate.

B. *Cooperative Planning.* National Park Service involvement in land management and use within the recreation area through a partnership with agencies and landowners is a central theme in the plan. Cooperative planning with others is a basic management strategy. This area, because of an existing variety of ownerships and uses provides the opportunity to work with others in a combined effort to meet overall objectives of maintaining the scenic and rural character of the mountains, encouraging sound land use practices, and providing services and recreation opportunities for visitors, while at the same time protecting private property rights.

The plan encourages National Park Service cooperation with: Private enterprise to provide necessary services and recreation development, private landowners to practice land stewardship, agencies to increase visitor services to the public, and volunteers to aid in recreational development and maintenance.

C. *Resources Management.* General goals are identified that will mitigate unacceptable resource impact, perpetuate natural diversity, and preserve human cultural history. Resource issues and research needs are identified that are being further defined in more specific resource management plans.

D. *Visitor Use and Development.* New visitor programs and facilities that are of interest to a wide variety of people of many cultural backgrounds are proposed. Thirty-one new activity sites are proposed at locations throughout the recreation area. Most of the visitor use will be concentrated at these activity sites which are accessible from all parts of the region and are located in physically suitable locations of flat or rolling terrain. New activity sites will provide additional opportunities for picnicking, group camping, access to water for fishing, and staging for back country areas as well as many new activities such as cultural interpretation, special events, skill-building, and outdoor education.

Some proposed activity sites will be developed by the National Park Service while others will be developed by private enterprise or by the National Park Service in cooperation with other agencies or groups.

A system of trails and camps is planned that will provide access to and use of the back country. The system will include hiking and equestrian trails as well as bike routes that will connect major features in the area to peripheral residential and trail head access points.

E. *Transportation.* A proposed public transportation system will allow people to get to and circulate within the recreation area. Plans include extension of the existing bus service network, shuttle service from outlying parking, subscription service, and ferry service to existing piers.

F. *Scenic Roads and Corridors.* Mulholland Drive and Highway is identified as a unique scenic and recreational resource which can be protected through cooperation with other agencies and citizens interested in proptection of its scenic values.

II. Alternative Considered

Two alternatives to the proposed action were considered:

A. *Present Action Alternative.* The direction established by National Park Service management since establishment in 1978 would continue under this alternative with no major recreational development that might affect the environment. However, visitor programs, minor site improvements, and limited development to provide for unstructured recreation would take place with the emphasis on trails and self-initiated visitor activities.

B. *No Action Alternative.* The National Park Service management role defined in Pub. L. 95–625 would be

withdrawn under this alternative. National Park Service management, visitor services, planning, and acquisition would all be curtailed. There would be no federal involvement in or influence of public or private uses in the mountains.

The cumulative environmental effects of alternative A are the lowest when a comparison is made of the proposed action and the two alternatives. Alternative A (present action) would result in few impacts on natural and cultural resources associated with facility development, which will occur when the proposed action is implemented. However, neither of the alternatives were selected as proposals because they do not fulfull the intent of the enabling legislation of permitting the National Park Service to carry out its mandate to preserve and develop the area for recreational use by a wide range of visitors.

When a comparison of the proposed action and the two alternatives are made as to their effectiveness in meeting the management objectives of the area, the proposed action is highly effective, Alternative A (present action) is moderately effective, and Alternative B (no action) is ineffective.

III. Mitigating Measures

The following mitigating measures are discussed in the environmental impact statement and will avoid and minimize environmental harm in implementing the proposed action:

Limitation of construction activities to previously disturbed areas whenever possible will substantially reduce impact on natural vegetation and soils. Removal of vegetation will be avoided whenever possible during construction.

Measures to be taken to mitigate effects of visitor use on vegetataion and soils will include monitoring resources to detect unacceptable degradation, rotation of use areas, restrictive signing, and installation of physical barriers.

The locations of many important plant and animal species and their habitats are only generally known. Therefore, all new construction or provisions for new activities will be preceded by site-specific surveys to confirm that no disturbance of special status plant or animal species or areas of special natural value will occur as a result of the plan.

Non-potable water needs will be met whenever possible with reclaimed water to reduce potable water consumption.

Future disturbance to cultural resources will be avoided by site-specific survey of all areas proposed for recreational development by NPS. Any project that may affect cultural resources that are on, or that are determined eligible for, the National Register will be submitted for consultation under the regulations of the Advisory Council on Historical Preservation. Knowledge of archeological sites will be kept confidential.

Potential for fire and its destructive impacts will be mitigated by closure or restricted use of activity site during periods of extreme fire danger, extensive seasonal fire awareness and fire prevention contacts with visitors, seasonal maintenance of fire suppression first attack.

The potential for conflicts between visitors and residents will be mitigated by additional patrol, buffers to separate visitor use areas from residential areas, and publication and interpretative programs that promote a knowledge of and a respect for private property.

Implementation of a transportation system will mitigate impacts related to traffic congestion, air pollution, and parking and access problems. Proposal will be implemented in compliance with applicable laws, executive orders, regulation and agreements.

IV. Implementing the Decision

Detailed action plans will be prepared using the GMP as a basis. Decisions will be refined to make them site specific. Action plans will include nataural and cultural resources management plans, development concept plans and comprehensive designs for visitor use and administrative areas, an interpretive prospectus to guide visitor programs and services, and specific plans for trail alignment. All action plans will be made available for public review prior to implementation.

Dated: July 6, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 82-19223 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those

where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-146

Decided: July 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 52793 (Sub-96), filed June 28, 1982. Applicant: BERKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher, (same address as applicant) 312-547-2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Ernst and Whinney, of Cleveland, OH.

MC 52793 (Sub-97), filed June 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312-547-2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Republic Steel Corporation, of Cleveland, OH.

MC 136873 (Sub-3), filed June 29, 1982. Applicant: ARTHUR HAEFNER, Box 214-A, R.D. No. 1 Pittston, PA 18643. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517, 717-344-8030. Transporting *household cleaning and laundry supplies, disinfectants, and household chemicals,* between points in Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146062 (Sub-5), filed June 25, 1982. Applicant: J. C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite, St. Louis, MO 63102, 314-421-0845. Transporting *ores and minerals and clay, concrete, glass or stone products,* between points in Madison County, IL, and Ste. Genevieve County, MO.

MC 151193 (Sub-28), filed June 25, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam, (same address as applicant) 201-499-3869. Transporting *such commodities* as are dealt in by supermarkets, drug stores, and retail department stores, between points in the U.S., under continuing contract(s) with Contract Packaging Corporation, of Totowa, NJ.

MC 157703 (Sub-1), filed June 25, 1982. Applicant: PACIFIC MIDWEST, INC., 5041 Woodcrest Rd., White Bear Lake, MN 55110. Representative: Robert P. Sack, P.O. Box 21-307, Eagan, MN 55121, 612-457-6889. Transporting *food and related products,* between points in NV and CA, on the one hand, and, on the other, Chicago, IL, and points in SD, NE, IA, MN, WI, MO, and KS.

MC 158583 (Sub-1), filed April 26, 1982. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Fort Atkinson, WI 53538. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719 (608) 273-1003. Transporting *petroleum, chemicals and related products,* in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Lien LP Gas Corp., of Illinois, of Loves Park, IL, and Lien Oil Co., of Janesville, WI.

MC 160202 (Sub-1), filed April 26, 1982. Applicant: SAFETY MOVING & STORAGE, INC., 3817 Fitzgerald Road, Louisville, KY 40216. Representative: George M. Catlett, Suite 700-702, McClure Building, Frankfort, KY 40601 (502) 227-7384. Transporting *food and related products,* between Louisville, KY, on the one hand, and, on the other, points in Floyd, Jefferson, Washington, Harrison, and Clark Counties, IN.

MC 160403 (Sub-3), filed June 24, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O. Box 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3071. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in ID, MT and UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

Volume No. OP4-251

Decided: July 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143696 (Sub-27), filed July 2, 1982. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Hwy 259 South, Henderson, TX 75652. Representative: Hugh T. Matthews, 555 Griffin Square, Suite 850, Dallas, TX 75202 (214) 742-9175. Transporting (1) *commodities which because of size or weight require the use of special handling or equipment,* (2) *metal products,* (3) *machinery,* and (4) *Mercer commodities,* between points in the U.S. (except HI).

MC 143776 (Sub-54), filed June 30, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253-9527. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Biltrite, Incorporated, of Lawrenceville, NJ

MC 146336 (Sub-27), filed July 2, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *general commodities* (except classed A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with NCH Corporation, of Irving, TX.

MC 148976 (Sub-5), filed July 2, 1982. Applicant: H & W TRANSFER AND CARTAGE SERVICE, INC., 611 South Main St., Cedartown, GA 30125. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E. Suite 520, Atlanta, GA 30326 (404) 262-7855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between point in Floyd County, GA, on the one hand, and, on the other, point in the U.S. (except AK and HI).

MC 162426, filed July 2, 1982. Applicant: W. W. TRUCKING COMPANY, Hwy 574, Dover, FL 33527. Representative: Roger A. Kirschenbaum, Suite 520, 3390 Peachtree Rd., N.E., Atlanta, GA 30326 (404) 262-7855. Transporting *foodstuffs,* between points in Hillsborough County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162786, filed July 1, 1982. Applicant: DUTCHESS COUNTY BUS CENTER, INC., d.b.a. MOUNTAIN VIEW TOURS, Rt. 9W, West Coxsackie, NY 12192. Representative: Samule B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021, (516) 482-0681. To operate as a *broker,* at Poughkeepsie, Albany, West Coxsackie, and Saugerties, NY, in interstate or foreign commerce, in arranging for the transportation of *passsengers and their baggage,* between points in the U.S.

MC 162776, filed July 1, 1982. Applicant: DMi TRUCKING, INC., State Rd. 64, P.O. Box 129, Huntingburg, IN 47542. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with DMi Furniture Inc., of Huntingburg, IN: Schnadig Corporation; Sweetheart Cup Corporation and Northwest Cone Company, Divisions of Maryland Cup Corporation, all of Chicago, IL.

MC 162746, filed July 1, 1982. Applicant: CLOCK ONE TRANSPORT, Route 1, Perryville, MO 63775. Representative: Kenneth L. Walker (Same address as applicant) (314) 547-8150. Transporting *liquefied petroleum gas and anhydrous ammonia,* between points in IL and MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19129 Filed 7-14-82; 8:45 am]

BILLING CODE 7035-01-M

[Revised I.C.C. Order No. 82 Under Service Order No. 1344]

Rail Carriers; Michigan Interstate Railway Co.; Rerouting Traffic

Service Date: July, 1, 1982.

To: Michigan Interstate Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company, and Soo Line Railroad Company.

In the opinion of J. Warren McFarland, Agent, the Ann Arbor Railroad System (Michigan Interstate Railway Company—Operator) is unable to transport traffic via the car ferry between Kewaunee and Manitowoc, Wisconsin, and Frankfort, Michigan, due to the termination of its Designated operations for the State of Michigan. As this matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, this action by the Commission is necessary. This order is revised to reflect the resumption of services between Ann Arbor and Frankfort, Michigan.

It is ordered:

(a) *Rerouting traffic.* The Ann Arbor Railroad System (AA) (Michigan Interstate Railway Company—Operator) being unable to transport promptly all traffic via the car ferry between Kewaunee and Manitowoc, Wisconsin, and Frankfort, Michigan, due to the termination of its Designated operations between those points (See AA Embargo 2-82, Amendment 4, 7/2/82), that line and its named connections are authorized to reroute any traffic routed via the points indicated. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even through no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntary agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., July 9, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 6, 1982.

Interstate Commerce Commission

J. Warren McFarland,

Agent.

[FR Doc. 82-19127 Filed 7-14-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-19 (Sub-58)]

Baltimore and Ohio Railroad Co. Abandonment—in Fayette, Greene and Montgomery Counties, OH; Findings

The Commission has found that the public convenience and necessity warrants Baltimore and Ohio Railroad Company to abandon its 41.28 mile rail line extending from railroad milepost 0.00 to railroad milepost 0.83 near Tates Point, on the Dayton Cut-off, and from railroad milepost 2.55 near Tates Point to milepost 43.00 near Luray in Fayette, Greene and Montgomery Counties, OH. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. 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 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc.82-19209 Filed 7-14-82; 8:45 am]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Actuarial Examinations Advisory Committee; Invitation for Membership on Advisory Committee

The Joint Board for the Enrollment of Actuaries (Joint Board), established under the Employee Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of individuals who wish to perform actuarial services under ERISA. The Joint Board has established an Advisory Committee on Actuarial Examinations (Advisory Committee) to assist in its examination duties mandated by ERISA. The term of the current Advisory Committee will expire in 1982 and the Joint Board proposes to renew such Advisory Committee's charter for a further two year period. This notice describes the Advisory Committee and

invites applications from those interested in serving on it.

1. *General.* To qualify for enrollment to perform actuarial services under ERISA, an applicant must have requisite pension actuarial experience and must satisfy knowledge requirements as provided in the Joint Board's regulations. The knowledge requirements may be satisfied by successful completion of Joint Board examinations in basic actuarial mathematics and methodology and in actuarial mathematics and methodology relating to pension plans. An individual also may meet the examination requirements by successful completion of actuarial organization examinations which the Joint Board has determined cover the same subject areas, have at least a comparable level of difficulty, and require at least the same competence as its examinations.

The Joint Board, in cooperation with the Society of Actuaries and the American Society of Pension Actuaries, jointly administer examinations which are acceptable to the Joint Board for enrollment purposes, and which are acceptable to those actuarial organizations as part of their respective examination programs.

2. *Purpose.* The Advisory Committee plays an integral role in the examination program by assisting the Joint Board in offering examinations which will enable examination candidates to demonstrate the knowledge necessary to qualify for enrollment. The purpose of the Advisory Committee, as renewed, will remain that of assisting the Joint Board in fulfilling this responsibility. The Advisory Committee will discuss the philosophy of such examinations, will review topics appropriately covered in them, and will make recommendations relative thereto. It also will recommend to the Joint Board proposed examination questions. The Joint Board will maintain liaison with the Advisory Committee in this process to ensure that its views of examination content are understood.

3. *Function.* The manner in which the Advisory Committee functions in preparing examination questions is intertwined with the jointly administered examination program. Under that program, the participating actuarial organizations draft questions and submit them to the Advisory Committee for its consideration. After review of the draft questions, the Advisory Committee selects appropriate questions, modifies them as it deems desirable and then prepares one or more drafts of actuarial examinations to be recommended to the Joint Board. (In addition to revisions of the draft questions, it may be necessary for the Advisory Committee to originate questions of its own and include them in what is recommended.)

4. *Membership.* The Joint Board will take steps to ensure maximum practicable representation on the Advisory Committee of points of view regarding the Joint Board's actuarial examinations extant in the community of actuaries. In this regard, appointment will be made from the actuarial community at large and from nominees provided by the actuarial organizations. Since the members of the actuarial organizations comprise a large segment of the actuarial profession, this appointive process ensures expression of a broad spectrum of viewpoints. All members of the Advisory Committee will be expected to act in the public interest; that is, to produce examinations which will help ensure a level of competence among those who will be accorded enrollment to perform actuarial services under ERISA.

Membership normally will be limited to actuaries previously enrolled by the Joint Board. However, individuals having academic or other special qualifications of particular value for the Advisory Committee's work also will be considered for membership. The Advisory Committee will be comprised of not more than twelve members.

The Advisory Committee will meet about six times a year. Advisory Committee members should be prepared to devote from 100 to 150 hours, including meeting time, to the work of the Advisory Committee over the course of a year. Members will be reimbursed for travel, meals and lodging expenses incurred, in accordance with applicable government regulations, in attending Advisory Committee meetings.

Actuaries interested in serving on the Advisory Committee should express their interest and fully state their qualifications in a letter addressed to: Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

The deadline for accepting applications is September 10, 1982.

Dated: July 9, 1982.

Leslie S. Shapiro,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 82-19195 Filed 7-14-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Proposed Final Consent Judgment in Action To Enjoin Prohibited Construction Under Clean Air Act

In accordance with Departmental Policy, 28 CFR section 50.7, notice is hereby given that a proposed final (consent) judgment in *United States* v. *Carolina Stalite Company*, Civil Action No. C-80-367-S, was lodged with the United States District Court for the Middle District of North Carolina on June 30, 1982. The proposed decree requires the Carolina Stalite Company to pay a civil penalty for alleged unlawful construction prior to receipt of a prevention of significant deterioration of air quality permit pursuant to Section 165 of the Clean Air Act, 42 U.S.C. 7401, 7475, at its facility in Gold Hill, Rowan County, North Carolina.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Carolina Stalite Company, D.J. Ref. 90-5-2-1-371.*

The proposed consent decree may be examined at the Region IV office of the United States Environmental Protection Agency, Enforcement Division, 345 Courtland Street, NE., Atlanta Groegia, 30365; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-19172 Filed 7-14-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Stratigraphy and Paleontology, Environmental Geosciences, Crustal Structure and Tectonics, Seismology and Deep Earth Structure, Experimental and Theoretical Geophysics, Petrogenesis and Mineral Resources, Mantle Geochemistry, and Experimental and Theoretical and Geochemistry Subcommittees).

Date and Time: August 11, 12 and 13, 1982; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357–7958.

Purpose of Committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1982.

[FR Doc. 82–19157 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Scientific and Engineering Personnel Ad Hoc Review Group; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Scientific and Engineering Personnel Ad Hoc Review Group of the Advisory Committee for Policy and Research and Analysis and Science Resources Studies.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Tuesday and Wednesday, August 3–4, 1982.

Time: 10:00 a.m.—5:00 p.m. (Tuesday, August 3); 9:00 a.m.—3:30 p.m. (Wednesday, August 4).

Type of Meeting: Open.

Contact Person: Dr. Charles Dickens, Senior Study Director, Division of Science Resources Studies, Room L–611, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 634–4787.

Summary Minutes: May be obtained from the contact person, Dr. Dickens, at the above address.

Purpose of Group: To review scientific and engineering personnel data collection and analysis programs within the Division of Science Resources Studies and to provide guidance on program activities.

Agenda: Tuesday, August 3, 1982:

10:00—10:45 a.m.:
General Session: Organization of Review Group

10:15—12 noon:
Plenary Session: Overview of Data on Utilization of Scientific and Engineering Personnel

1:30—3:30 p.m.:
Overview of Data of Supply of New Scientific and Engineering Personnel

3:30—5:00 p.m.:
Presentation on Balances in Supply and Demand for Scientific and Engineering Personnel

Wednesday, August 4, 1982:

9:00—10:00 a.m.:
Special Issues Involving Data on Scientific and Engineering Personnel

10:00—12 noon:
Discussion of National Science Foundation's Scientific and Engineering Personnel Data Collection Activities

1:30—3:30 p.m.:
Discussion of Report of Review Group

3:30 p.m.:
Adjournment

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1982.

[FR Doc. 82–19158 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Environmental Biology; Oversight Committee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Oversight Committee of the Advisory Panel for Environmental Biology.

Date and Time: August 16 and 17, 1982, 8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. W. Franklin Harris, Deputy Division Director, Environmental Biology, Room 1140, National Science Foundation, Washington, D.C. 20550, (202) 357–7332.

Purpose of Executive Committee: To provide advice and rcommendations concerning support of research in ecosystem studies.

Agenda: Review and comparison of declined proposals (and supporting documentation) with successful awards under the Ecosystem Studies Program.

Reason for Closing: The Oversight Committee will be reviewing grants and declinations which contain the names of applicants, institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to the applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: July 12, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

FR Doc. 82–19159 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Reports Issued:

Highway Accident Report—Herman Duvall Tractor-Pole Semitrailer/S.L.&B Academy, Inc. Schoolbus Collision, U.S. Route 45, near Waynesboro, Mississippi, October 12, 1981 (NTSB–HAR–82–2).

Railroad Accident Report—Head-on Collision of Boston & Maine Corporation Extra 1731 East and Massachusetts Bay Transportation Authority Train No. 570, on Former Boston & Maine Corporation Tracks, Beverly, Massachusetts, August 11, 1981 (NTSB–RAR–82–1).

Railroad Accident Report—Rear-end Collision of New York City Transit Authority Subway Trains 142NL and 132NL, Brooklyn, New York, July 3, 1981 (NTSB–RAR–82–2).

Marine Accident Report—Collision of Washington State Ferry M/V KLAHOWYA and Liberian Freighter SANKO GRAIN, Seattle Harbor, Washington, January 13, 1981 (NTSB–MAR–82–4).

Recommendations to:

U.S. Coast Guard, Jun. 30, M–82–32 through –34: Regarding the Inland Navigation Rules Act of 1980: Publish interpretive rulings so that river towboat operators will know when to apply the narrow channel rule; establish an informational and enforcement program about Rule 34(e) on the western rivers to promote the use of the bend signal; publish an interpretive ruling of Rule 34(h) to clarify situations wherein sounding whistle signals is considered permissive, rather than obligatory. *Jul. 8, M–82–35:* Require that all U.S. mobile offshore drilling units that operate in waters where hypothermia can greatly reduce an individual's survival time carry an exposure suit for each person on board, similar to that required by 46 CFR 94.41–5(c).

Ocean Drilling & Exploration Company, Jul. 8, M–82–36: Provide all your mobile offshore drilling units that operate in waters where hypothermia can greatly reduce an individual's survival time with exposure suits for each person on board, similar to that required by 46 CFR 94.41–5(c).

International Association of Drilling Contractors, Jul. 8, M–82–37: Recommend to its members that they provide exposure suits for each person on board mobile offshore drilling units which operate in waters where hypothermia can greatly reduce an individual's survival time, similar to that required by 46 CFR 94.41–5(c).

Recommendation Responses from:

Federal Aviation Administration, Jun. 28, A–80–53 through –55: Corrective actions completed or planned include airworthiness directives which require as airplane modifications the installation of two-speed primary pitch trim actuator, trim-in-motion aural warning, master pitch axis interrupt switch, overspeed warning redesign, control-wheel markings/placards, autopilot redesign, and other appropriate corrective action to specific models; FAA personnel visited pilot schools, pilot examiners involved in certification of Learjet pilots, and air taxi operations using Learjet airplanes to discuss Learjet operation; Learjet has been holding turbojet seminars nationwide; airplane flight manuals were revised on February 5, 1982, to incorporate a procedure which involves extending the landing gear when V_{MO}/M_{MO} is inadvertently exceeded. *Jun. 28, A–82–1:* Issued Change 59 to FAA Order 8340.1A on May 19, 1982, transmitting Maintenance Bulletin 25–40 to alert field inspectors of problems experienced with service cart restraining and latching mechanisms, and to insure that operators have adequate maintenance/inspection procedures for the carts. *Jun. 28, A–82–32 and –33:* May supersede several existing airworthiness directives (AD) with one or more Notice of Proposed Rulemaking AD's to establish a coordinated wing structure program; manufacturer will issue new service instructions and FAA will issue a corresponding General Aviation Airworthiness Alert requesting reports of defects found. *Jun. 28, A–82–28 through –29:* Is reviewing the flight training curricula of FAA-approved Part 141 pilot schools in the Southern Region to ensure that adequate safety procedures and practices relative to utility category flight operations are in effect, and is recommending similar action in other regions; do not agree that the recommended action is appropriate since it would mandate a minimum spin entry altitude which is not appropriate for all spin maneuvers. *Jun. 30, A–78–29:* Analysis concludes that benefits derived from implementing this recommendation would not likely offset equipment and maintenance costs. *Jul. 1, A–81–144:* Investigation of the problem has revealed no substantive information that would warrant the issuance of an airworthiness directive. *Jul. 2, A–80–51 and –52:* On Mar. 10, 1982, issued Change 27 to FAA Handbook 8440.5A transmitting Operations Bulletin No. 82–1, Need for an Alternate Airport for IFR Operations into High Altitude Airports. *Jul. 2, A–82–40 and –41:* On Apr. 27, 1982, issued emergency telegraphic Airworthiness Directive T82–09–53 requiring immediate installation of the improved design main rotor swashplate drive link assembly to prevent possible failure of the original design drive links due to excessive bearing clearance and to possible rapid crack progression. *Jul. 6, A–81–131:* Instructed staff to amend the appropriate Master Mimimum Equipment Lists by specifying 15 flight-hours for domestic flights and 25 flight-hours for international flights as a limit to repair or replace inoperative items of the public address system. *Jul. 6, A–82–31:* Recommended action which, in effect, was taken over a year ago by the FAA and the manufacturer has resulted in a significant reduction in service difficulties. *Jul. 6, A–82–38 and –39:* Is evaluating public comments received about proposed FAA Advisory Circular 25.903X; is studying what research might be initiated to reduce the uncontained engine failure hazard. *Jul. 6, A–82–43:* A safety problem related to second-in-command currency has not been evident; operational practices plus current requirements in training and checking provide adequate recent experience. *Jul. 6, A–81–30 and –31:* Plans to issue an advisory circular emphasizing the safety hazards of poorly maintained exhaust systems on single-engine airplanes. *Jul. 8, A–80–132, –137, and –138:* Does not believe it necessary to analyze and evaluate the technical and operational feasibility of requiring air traffic control to provide separation between aircraft and severe meteorological conditions because current procedures are adequate; the application of the recommendation to new production airplanes would result in significant, costly airplane redesign and a thorough safety benefits vs. cost analysis would be required; is evaluating comments received on priority of duties and expects to complete required changes and revised procedures by September.

Federal Highway Administration, Jun. 28, H–80–16 through –20: Will issue an Advance Notice of Proposed Rulemaking to obtain available data from the public; reports from the Management Information System of the Bureau of Motor Carrier Safety regarding noncompliance will be delayed until 1983 because of current resource constraints; the recommended evaluation would not be cost-effective or practical.

National Highway Traffic Safety Administration, Jul. 1, H–81–26: Limited resources require NHTSA to focus its efforts on high payoff areas such as safety belt use and reducing driving while intoxicated; is not convinced that it can economically identify any "uniform guidance" for drivers for situations which are not uniform, such as when and where fog will cover a highway. *Jul. 1, H–80–14:* Planning a Driver License Compact Implementation Project to encourage the States to adopt the "one-license" concept.

Research and Special Programs Administration (DOT), Jun. 25, P–74–1: Does not believe it feasible to attempt to mandate by regulation a precise set of protective measures which pipeline operators must take to ensure their facilities from the risk of possible damage due to blasting in the vicinity; has included in the final rule in Docket PS 59, "Damage Prevention Program," required steps that an operator must take whenever blasting operations might affect the pipeline.

Metropolitan Dade County, Florida, Transportation Administration, Jun. 30, R–82–25: Opening between cars will be restricted to 8 inches, the threshold plate opening will be restricted to 4 inches, and passenger passage between cars will be prohibited except in emergencies.

National Society of Professional Engineers, Jul. 1, P–82–28: Will consider information for articles in CONSULTING ENGINEER magazine.

Columbia Gas Transmission Corp., Jun. 30, P–82–13 through–15: Is considering recommendations, and where changes will assure greater safety, will implement such changes into procedures.

American Road & Transportation Builders Assoc., Jul. 6, P–82–29: Will advise its contractor members as recommended.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Date: July 15, 1982.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 82–18983 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison Co. (Dresden Station, Units 2 and 3), (Spent Fuel Pool Modification); Hearing Date Changes

July 9, 1982.

In response to a motion by the NRC Staff, for good cause shown without objection of the parties the date of the hearing, in which evidence will be taken in regard to the purport of the Supplementary Safety Evaluation Report, has been changed from 10:00 a.m. Tuesday, July 13, 1982 to 10:00 a.m. Tuesday, July 20, 1982. The rescheduled sessions will take place in the Nuclear Regulatory Commission Hearing Room, Room No. 550 in the East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

By mail, dated May 28, 1982, the NRC Staff served the parties in this case with a Supplementary Safety Evaluation Report. The Report attempts to resolve the issue as to whether or not the spent fuel pool floors can withstand the loads which could be imposed by the new high density fuel rocks during a seismic event. Evidence relevant to this issue

will be heard at the hearing, notice of which is given above.

The public is invited to attend. No personal appearances will be heard at this hearing. However, written statements, relevant to the issue in question, will be accepted and will ride with the record.

Dated and issued at Bethesda, Maryland this 9th day of July, 1982.

For the Atomic Safety and Licensing Board.

John F. Wolf, Chairman,

Administrative Judge.

[FR Doc. 82-19216 Filed 7-14-82; 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: Extension.

2. The title of the information collection: State Agreement Program.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Semiannually, on occasion.

5. Who will be required or asked to report: NRC Agreement State governments.

6. An estimate of the number of responses: 52.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 10,000.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: As part of the NRC cooperative post-agreement program with the States (section 274(g) of the Atomic Energy Act of 1954, as amended) information on licensing and inspection practices, and on incidents, and other technical and statistical information is exchanged.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Gwendolyn W. Pla, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 9th day of July 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Acting Director, Office of Administration.

[FR Doc. 82-19217 Filed 7-14-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12531; 811-3109]

Bank Equity Trust Fund, Inc.; Filing of Application for an Order Pursuant To Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Bank Equity Trust Fund, Inc. ("Applicant") 2777 Allen Parkway, Houston, Texas 77019, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 1, 1982, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Texas, and registered under the Act on November 8, 1980. The initial public offering of its shares was made on April 1, 1981. Applicant states that on August 13, 1981, its Board of Directors approved a resolution recommending the liquidation and dissolution of Applicant, and directing that the question of dissolution and a plan for liquidation be submitted to Applicant's shareholders, who approved the dissolution and liquidation plan on August 20, 1981, by means of a unanimous written consent. Applicant states that on August 31, 1981, it distributed all of its assets, amounting to $100,000 in cash, pro rata to its shareholders.

Applicant states that as of the date of filing of the application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no security holders, and that it filed Articles of Dissolution with the Secretary of State of the State of Texas, who issued a Certificate of Dissolution on September 17, 1981.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commssion in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19118 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12530; 811-3110]

Bank Fixed-Income Trust Fund, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Bank Fixed-Income Trust Fund, Inc. ("Applicant"), 2777 Allen Parkway, Houston, Texas 77019, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 1,

1982, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Texas, and registered under the Act on November 8, 1980. The initial public offering of its shares was made on April 1, 1981. Applicant states that on August 13, 1981, its Board of Directors approved a resolution recommending the liquidation and dissolution of Applicant, and directing that the question of dissolution and a plan for liquidation be submitted to Applicant's shareholders, who approved the dissolution and liquidation plan on August 20, 1981, by means of a unanimous written consent. Applicant states that on August 31, 1981, it distributed all of Applicant's assets, amounting to $100,000 in cash, pro rata to its shareholders.

Applicant states that as of the date of filing of the application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no securityholders, and that it filed Articles or Dissolution with the Secretary of State of the State of Texas, who issued a Certificate of Dissolution on September 17, 1981.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[Release No. 22567; 70–6436]

The Columbia Gas System, Inc., Changes in Terms of Revolving Credit Agreement and Terms of Unsecured Notes Evidencing Borrowings Thereunder

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road Wilmington, Delaware 19807, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By order dated May 1, 1980 (HCAR No. 21546) in this proceeding, the Commission authorized Columbia to borrow up to $200,000,000 pursuant to a Revolving Credit and Term Loan Agreement with a group of eight commercial banks. The loans would be evidenced by the issuance by Columbia of unsecured subordinated promissory notes bearing interest based on the fluctuating Prime Commercial Lending Rate of Morgan Guaranty Trust Company of New York. Columbia agreed to pay certain fees.

By post-effective amendment filed in this proceeding, Columbia is seeking to amend its authorization. It seeks to increase the amount which can be borrowed to $300,000,000, to increase the term of that facility to ten years and one day, and to provide Columbia with an optional rate structure which will significantly reduce interest costs over the life of the facility and reduce substantially the fees to be paid.

Interest on the notes will be computed according to the following rate options to be selected by Columbia for the time periods indicated:

Option 1

Years 1–6: Prime Rate (Fluctuating)
Years 7—10: Prime Rate (Fluctuating)×102%

Option 2

Years 1–4: 3- or 6-month LIBOR [1] + ⅜%
Years 5–7: 3- or 6-month LIBOR [1] + ½%
Years 8–10: 3- or 6-month LIBOR [1] + ⅝%

Option 3

Years 1–4: 30, 60 or 90-day C.D. [2] + ½%
Years 5–7: 30, 60 or 90-day C.D. [2] + ⅝%
Years 8–10: 30, 60 or 90-day C.D. [2] + ¾%

At current rates, Columbia's effective cost of money under the new agreement would be reduced from 16.83% to 15.08%. Based on the $180,000,000 currently outstanding under the existing agreement, Columbia would realize an annual interest cost reduction of approximately $3,150,000. Columbia would pay a fee of ⅜% per annum times the unused portion of the facility.

During the first six years, the amount to be borrowed under the notes may be repaid and reborrowed at any time in whole or in part, to the extent that the aggregate outstanding amount any one time does not exceed $300,000,000. At the end of six years, any borrowings outstanding will be converted to a four year and one day term loan. The term loan would be repaid in sixteen quarterly installments during the last four years of the new facility.

The extended maturity of the facility will have the effect of subjecting the notes to a charter provision limiting unsecured debt to 20% of capitalization rather than the charter provision applicable to unsecured debt maturing in ten years or less which is limited to 10% of capitalization. Both charter provisions are operative so long as there is preferred stock outstanding.

The net proceeds from the issue of the notes will be added to the general funds of Columbia which, together with the funds then available and funds thereafter generated from operations, will be used to satisfy the demands upon such general funds.

Columbia requests an exception from the competitive bidding requirements of Rule 50(b) pursuant to Rule 50(a)(5).

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to

[1] London Inter-Bank Offered Rate, reserve adjusted.

[2] Agent's dealer bid rate on Certificates of Deposit adjusted for seservers and Federal Deposit Insurance Corporation charges.

comment or request a hearing should submit their views in writing by July 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the declaration, as amended by the post-effective amendment, or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19125 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12533; 811-256]

Equitec Fund, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Equitec Fund, Inc. ("Applicant") 3732 Mt. Diablo Blvd. Layafette, California 94549, an openend, diversified, management company registered under the Investment Company Act of 1940 (the "Act") filed an applications on May 17, 1982, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Applicant commenced its initial public offering on April 12, 1977. Applicant states that it is in the process of filing a Certificate of Winding Up and Dissolution with the Secretary of State of the State of California. Applicant states that its Board of Directors approved a formal Plan of Dissolution on February 18, 1982, which was approved by 59.1% of the shares outstanding on the record date, February 9, 1982, at an annual meeting of shareholders on March 26, 1982. Applicant states that on the same date its Board of Directors approved a Certificate of Election to Wind Up and Dissolve Applicant.

Applicant states that distribution to its securityholders totaling $921,976 were made pursuant to the Plan of Dissolution. Applicant further states that no assets have been retained by Applicant, and that it has no remaining outstanding debts or other liabilities. At the time of filing its application, Applicant has no remaining securityholders. Applicant states that it is not a party to any litigation or administrative proceedings, nor is Applicant engaged in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 82-19118 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12532; 81-853]

Insurors Mutual Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act and Rule 8f-1 Thereunder for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Insurors Mutual Fund, Inc. ("Applicant") 733 North Van Buren Street Milwaukee, Wisconsin 53202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 25, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the General Business Corporation Law of the State of Wisconsin on August 26, 1958, and that it registered under the Act on November 12, 1958, and filed a registration statement pursuant to Section 8(b) of the Act on February 3, 1959. Applicant states that it has never filed any registration statement with respect to its securities pursuant to the Securities Act of 1933 (the "1933 Act"). Applicant states further that pursuant to an order, dated November 29, 1965, granted by the Commission pursuant to Section 6(c) of the Act, the Commission exempted Applicant from the provisions of, among other sections of the Act, Sections 24(d) and 22(d) of the Act which, in general, prohibit the sale of a registered investment company's securities if not registered under the 1933 Act. Applicant represents that pursuant to the foregoing order, since April 1, 1959, when Applicant first offered its shares for sale, Applicant has offered and sold its shares only to Wisconsin town mutual insurance companies (organized and doing business in the State of Wisconsin) in reliance upon the exemption from registration provided in Section 3(a)(11) of the 1933 Act.

Applicant states that it has taken all steps necessary to terminate its existence under the Wisconsin General Business Corporation Law through the filing of Articles of Dissolution with the Secretary of State of the State of Wisconsin on December 28, 1981, and the recording thereof with the Register of Deeds for Milwaukee County, Wisconsin on December 29, 1981.

Applicant states further that during the last 18 months prior to filing of the application, it has not transferred any of its assets to a separate trust the beneficiaries of which were shareholders of Applicant. Applicant's shareholders approved the dissolution and liquidation of Applicant pursuant to a Plan of Complete Dissolution and Liquidation (the "Plan") at a special meeting its shareholders held on December 8, 1981.

Following such approval of the Plan, Applicant proceeded to wind-up its affairs by selling its portfolio securities and other assets. Applicant realized a total of $1,537,110.36 from the sale of its portfolio securities and other assets all of which have been distributed on a pro rata basis (at the rate of $74,124 per share) to the Applicant's shareholders of record on December 8, 1981.

Applicant states further that as of the date of application, it has retained $15,000 in cash which it is holding for the purposes of paying the costs and expenses incurred in connection with its liquidation (i.e., legal and accounting fees, the cost of the special meeting of shareholders, filing fees, etc.) Applicant maintains that the entire amount so retained has been or will be applied for the purposes indicated and have not, and will not be, invested in any securities. Applicant states that if the amount which it has retained is in excess of the amount required to pay the costs and expenses of its liquidation, it will distribute such excess to its shareholders in accordance with the provisions of the Wisconsin General Business Corporation Law. Except for the costs and expenses incurred in connection with its liquidation, Applicant maintains that it is not indebted to any party, nor does it have any outstanding liabilities. It is further maintained that Applicant is not a party to any litigation or administrative proceedings and that as of the date of the application, there are no shareholders or any other holders of securities of the Applicant. Finally, it is represented that Applicant is not now engaged, nor does it intend to engage, in any business activities other than those necessary to wind-up its affairs.

Section 8(f) of the Act, and Rule 8f-1 thereunder, provide, in relevant part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and the postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19117 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-11-M

[Release No. 22568; 31777]

James River Corporation of Virginia and James River-Berlin Gorham, Inc.; Application for Exemption Pursuant to Section 3(a)(3)

James River Corporation of Virginia ("James River"), Tredegar Street, Richmond, Virginia 23217, a Virginia corporation, and its wholly-owned subsidiary James River-Berlin Gorham, Inc. ("JRBG"), a Delaware corporation, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order of exemption under Section 3(a)(3). All interested persons are referred to the amended application, which is summarized below, for a description of applicants and a statement of the basis upon which the exemption is sought.

James River is engaged, directly and through subsidiaries, in the manufacture and sale of specialty papers, packaging papers, paperboard and cartons, pulp and other wood products. It has plants at various locations in the United States. At April 25, 1982, James River reported consolidated assets of $478,115,880 and for its fiscal year then ended consolidated revenues of $775,472,681 and net income of $22,352,805.

In 1980 James River acquired the paper business of Brown Company ("Brown") through a series of merger transactions. Included in the acquisition were a Brown subsidiary known as BBC, Inc., and its wholly-owned subsidiary Brown-New Hampshire, Inc., which owned and operated certain electric generation and transmission facilities. Following the merger the name of BBC, Inc. was changed to James River-Berlin Gorham, Inc. and the name of Brown-New Hampshire, Inc., was changed to James River-New Hampshire Electric, Inc. ("JRNH"). JRBG owns all the voting securities of JRNH, which now owns and operates the utility facilities.

JRBG is engaged in the manufacture and sale of paper and other wood products. Its plants are located at Berlin and Gorham, New Hampshire. At April 25, 1982, JRBG reported assets of $104,887,376 and for its fiscal year then ended revenues of $133,417,308 and net income of $11,583,582. JRNH owns and operates thermal and hydro-electric generation facilities in Berlin, Gorham and Shelburne, New Hampshire, having an aggregate rate capacity of approximately 47 MW, and related transmission facilities. The facilities are operated by JRNH to supply power to JRBG's pulp and paper mills. The output of JRNH is supplemented by purchasing electricity from Public Service Company of New Hampshire ("PSNH"). To reduce the cost of purchased power, JRNH, generally on Sundays and holidays, delivers and sells to PSNH energy not required by JRBG for its operations. In calendar year 1981 JRNH produced 283,169,100 kwh, bought 66,315,400 kwh, and sold 3,711,400 kwh to PSNH at a price of $143,417. The sales to PSNH constitute JRNH's only income other than reimbursement of expenses incurred in providing power to JRBG.

James River and JRBG request an order of exemption pursuant to Section 3(a)(3) of the Act. That section provides that the Commission shall exempt a holding company if "such holding company is only incidentally a holding company, being primarily engaged" in non-utility businesses, and (1) not deriving a material part of its income from public-utility subsidiaries or (2) deriving a material part of its income from public-utility subsidiaries if substantially all of the outstanding

securities of such companies are owned by such holding company.

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 5, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19126 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12534 Q; 812-5207]

Money Express Reserve Fund; Filing of Application for Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that Money Express Reserve Fund ("Applicant"), #6 The Commons, 3512 Silverside Road, Wilmington, Delaware 19803, a no-load, open-end, diversified, management investment company, registered under the Investment Company Act of 1940 (the "Act"), filed an application on June 8, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to seek current income, liquidity, and stability of principal. Applicant states further that the securities purchased by it will have remaining maturities of one year or less (although securities subject to repurchase agreements may bear longer maturities). Applicant represents that it will invest exclusively in obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.

Applicant states in its preliminary prospectus, dated June 8, 1982, that Provident Institutional Management Corporation ("PIMC"), a wholly-owned subsidiary of Provident National Bank of Philadelphia ("Provident") serves as Applicant's investment adviser. PIMC is engaged in the business of providing investment advisory services to investment companies and receives a fee from Applicant computed daily and paid monthly at an annual rate of .25% of Applicant's net assets. Applicant states further that Provident receives fees for acting as custodian and transfer agent.

Applicant asserts in its preliminary prospectus that its shares are sold exclusively to Winters National Bank and Trust Co. ("Winters National") and its affiliated and correspondent banks acting in a fiduciary, advisory, custodial or other similar capacity on behalf of their customers. Applicant further asserts that Winters National and its affiliated and correspondent banks may charge their customer accounts for services provided in connection with the purchase and redemption of Applicant's shares. Applicant's shares are represented to be sold and redeemed by Shearson/American Express Inc. ("Shearson"), a wholly-owned subsidiary of the American Express Company. The Boston Company Advisors, Inc. ("Boston Advisors"), an indirect subsidiary of Shearson, serves as the Applicant's administrator. Boston Advisors receives a fee for its services as administrator computed daily and paid monthly at an annual rate of .25% of the Applicant's net assets. The application states that Applicant will not invest in securities issued or guaranteed by Provident, Winters National or their affiliated entities. Counsel for PIMC has opined that the activities of PIMC as Applicant's investment adviser will not violate any federal banking laws or regulations.

In pertinent part, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors.

The Commission has expressed its view that, among other things, (1) Rule 2a-4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" or similar fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

The Commission is authorized by Section 6(c) of the Act to exempt, *inter alia*, any "security or transaction, or any class or classes of . . . securities, or transactions" from any provision of the Act or any rule thereunder, "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

In support of the relief requested, Applicant expresses its belief that its shareholders would be unfairly treated if it were forced to price its portfolio instruments in a manner which would produce artificial price or yield volatility for instruments which Applicant expects to hold until maturity. Applicant expresses its view that potential shareholders are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost. On the other hand, Applicant believes that such potential shareholders are vitally concerned that

(1) the net asset value of their interests remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

By maintaining its portfolio of short-term, Federally-issued or guaranteed obligations, Applicant believes that it will be possible to provide the required stability to individuals and institutional investors. Applicant has determined that maintaining an average maturity of 120 days or less will accomplish the aims of its investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the market in which Applicant is investing.

Applicant agrees that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Trustees undertake—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Trustees shall be the following:

(a) Review by the Trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by its Trustees in the exercise of their discretion to be appropriate indicators of value which may include, among others, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event that such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Trustees believe that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the greatest extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; *provided,* however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, except for instruments subject to repurchase agreements providing for settlement within one year after Applicant's purchase of the instrument, nor (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Trustees determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, are of comparable quality as determined by the Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, Applicant will describe the nature and circumstances of such action.

Prior to adopting the amortized cost method of valuation, Applicant's Trustees will determine in good faith that in light of the characteristics described above, including the conditions to which Applicant must adhere as set forth in any order of the Commission, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19120 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18875; File No. SR-MSRB-82-9]

Filing and Immediate Effectiveness of Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on June 21, 1982, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Ave., N.W., Washington, D.C. 20036, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change is an interpretation of MSRB Rule G–17 which prohibits deceptive, dishonest or unfair practices by a broker, dealer or municipal securities dealer. Pursuant to the interpretation, the distribution of initial "when, as, and if issued" transaction confirmations ("WAII confirmations") prior to the award date of a competitive new municipal security issue or the execution date of the bond purchase agreement of a negotiated new municipal security issue ("trade date") would be deemed to be an unfair or misleading practice. The MSRB states that WAII confirmations are used to confirm orders placed with a municipal securities dealer during the pre-sale portion of the underwriting period. Such pre-sale orders are expressions of the purchaser's firm intent to purchase new issue municipal securities which have certain characteristics at a stated price when they become pre-sale orders cannot be considered as executed until the trade date, the mailing of a WAII confirmation before the trade date is misleading because it suggests that orders actually have been filled. The MSRB further states, however, that the interpretation does not invalidate the practice of soliciting and accepting pre-sale orders or alter the requirement of MSRB Rule G–12 that WAII confirmations of inter-dealer transactions be sent out within two business days of the trade date.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. The Commission, however, may abrogate summarily the proposed rule change any time within 60 days of the filing if it appears to the Commission that such acton is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–82–9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the MSRB's office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19121 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12536; 812–5174]

National Cash Reserves Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

Notice is hereby given that National Cash Reserves, Inc. ("Applicant"), 605 Third Avenue, New York, New York 10158, registered under the Investment Company Act of 1940, ("Act") as an open-end, diversified, management investment company, filed an application on April 19, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund and is organized as a Maryland corporation. Applicant represents that a registration statement was filed on its behalf on February 22, 1982, but is not yet effective. Applicant states that its investment objective is to obtain high current income to the extent consistent with liquidity and safety of capital. Applicant further states that it will invest in short-term marketable obligations of United States banks and other United States financial institutions, high quality commercial paper, short-term corporate obligations, obligations guaranteed as to principal and interest by the United States Government (or its agencies or instrumentalities) and in repurchase agreements fully secured or collateralized by such obligations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair market value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities

on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Appliant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Reules 2a–4 and 22c–1 thereunder, to the extent necessary to permit the Applicant to use the amortized cost method of valuing portfolio securities. Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost value represents fair value of its portfolios securities. It is represented that the Applicant's board of directors also believes that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with the protection against dilution and excessive risk in the form of conditions involving procedures for review by the Applicant's board of directors and requirements as to the quality of the Applicant's portfolio investments.

Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accesible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be attained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant shall include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, shall describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19123 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12537; 812-5177]

Oppenheimer Fund, Inc., et al.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants From Section 2(a)(19) of the Act and Pursuant to Section 10(f) of the Act Exempting Certain Transactions From the Provisions of Section 10(f) of the Act

In the Matter of Oppenheimer Fund, Inc., Oppenheimer Option Income Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc., Oppenheimer Special Fund, Inc., Oppenheimer Tax-Free Bond Fund, Inc., Oppenheimer Money Market Fund, Inc., Oppenheimer Directors Fund, Inc., Oppenheimer Target Fund, Inc., Oppenheimer Money Trust, Oppenheimer Management Corporation, and Oppenheimer Investor Services, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that Oppenheimer Fund, Inc., Oppenheimer Option Income Fund, Inc., Oppenheimer A.I.M, Fund, Inc., Oppenheimer Time Fund, Inc, Oppenheimer Special Fund, Inc., Oppenheimer Tax-Free Bond Fund, Inc., Oppenheimer Money Market Fund, Inc., Oppenheimer Directors Fund, Inc., Oppenheimer Target Fund, Inc., and Oppenheimer Money Trust (collectively, "Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company; and Oppenheimer Management Corporation ("OMC"), and Oppenheimer Investor Services, Inc. ("OIS"), the Funds' investment adviser and principal underwriter, respectively, filed an application on April 23, 1982, for an order of the Commission pursuant to Section 6(c) of the Act, declaring that Kenneth A. Randall, a director, trustee, or prospective director or trustee of the Funds and of other funds which may be organized and managed by OMC in the future ("Additional Funds"), shall not be deemed an "interested person", within the meaning of Section 2(a)(19) of the Act, of the Funds, of any Additional Funds, or of OMC or OIS, solely by reason of his present or Mutual Casualty Company ("Lumbermens"), the parent company of Kemper, American Motorists Insurance Corporation prospective status as a director of Kemper Corporation ("Kemper"), Lumbermens Mutual Casualty Company ("Lumbermens"), the parent company of Kemper, American Motorists Insurance Corporation ("American Motorists"), a wholly-owned subsidiary of Kemper, American Manufacturers Mutual Insurance Company ("American Manufacturers"), a mutual company associated with Kemper, Federal Kemper Life Assurance Company ("Federal Kemper Life"), a wholly-owned subsidiary of Kemper, or Fidelity Life Association ("Fidelity Life"), a mutual life company associated with Kemper (Kemper, Lumbermens, American Motorists, and American Manufacturers are hereinafter referred to collectively as the "Kemper Companies"); and pursuant to Section 10(f) of the Act exempting Applicants from the provisions of Section 10(f) to permit the Funds and any Additional Funds to purchase securities in which Blunt, Ellis & Loewi Incorporated ("Blunt") and/or Bateman Eichler, Hill Richards Inc. ("Bateman"), registered broker-dealers of which Mr. Randall may be deemed an affiliated person, participate as principal underwriters. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that Mr. Randall is a nominee for re-election as a director of the Kemper Companies and that he has been nominated for election as a director of Federal Kemper Life and Fidelity Life. It is further stated that Kemper Financial Services, Inc. ("KFS"), a wholly-owned subsidiary of Kemper, and Investors Brokerage Services, Inc. ("IBS"), a wholly-owned subsidiary of KFS, are broker-dealers registered under the Securities Exchange Act of 1934 ("Exchange Act"). Applicants represent that KFS and IBS are registered under the Exchange Act principally because of their functions with respect to the underwriting and distribution of mutual fund shares and annuities. It is further represented that KFS has no public brokerage customers and that IBS conducts a small brokerage business for employees of the Kemper organization.

Applicants further state that Kemper and Loewi Financial Companies, Ltd. ("Loewi") are parties to a merger agreement pursuant to which Blunt, a registered broker-dealer which is a wholly-owned subsidiary of Loewi, are expected to become direct and indirect wholly-owned subsidiaries, respectively, of Kemper. In addition, it is stated that Lumbermens is a party to an agreement under which Bateman, also a registered broker-dealer, is expected to become a subsidiary of Lumbermens (KFS, IBS, Blunt, Bateman and any other broker-dealers which may in the future be acquired by any of the Kemper Companies are hereinafter referred to collectively as the "Broker-Dealers"). Applicants state that Blunt and Bateman are regional broker-dealers engaged in a full-line brokerage business.

Sections 2(a)(19)(A)(v) and 2(a)(19)(B)(v) of the Act, in pertinent part, define the term "interested person," when used with respect to an investment company, its investment adviser, or its principal underwriter, to include "any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer." Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person of another person as any director of such other person, or any person controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company unless such power is solely the result of an official position with such company.

As a director of Kemper, Mr. Randall would be merely an affiliated person of an affiliated person of KFS, a registered broker-dealer, and an affiliated person of an affiliated person of an affiliated person of IBS, a registered broker-dealer. Applicants assert, moreover, that Mr. Randall does not exercise a controlling influence over the management or policies of any Broker-Dealer, and would not do so upon the acquisition of Loewi by Kemper or the acquisition of Bateman by Lumbermens. In this regard, it is further stated that Mr. Randall does not and will not participate in the day-to-day operations of Lumbermens, Kemper, KFS, or IBS, and is not and will not be an officer of Lumbermens, Kemper, or of any of their subsidiaries, or of any Broker-Dealer.

Applicants note that Section 2(a)(9) of the Act provides that any person who does not beneficially own more than 25% of the voting securities of a company shall be presumed not to control such company, and that Mr. Randall owns only 400 of the 13,249,000 shares of Kemper common stock outstanding, and that he does not beneficially own any voting securities of Lumbermens. Applicants state, therefore, that while it may be contended that intermediate entities should be disregarded for purposes of determining whether a person is an affiliated person of another person within the meaning of the Act, Applicants believe that such an interpretation would be inappropriate in this instance in view of the lack of control or influence which Mr. Randall exercises over the Broker-Dealers.

Applicants further submit that Mr. Randall is not and will not be under common control with any of the Broker-

Dealers, asserting that such would be the case only if he were controlled by Lumbermens or Kemper and that, in fact, he is not controlled by either of these companies. It is stated also that the only compensation which Mr. Randall receives from Lumbermens or Kemper, or from any of the Kemper Companies, are ordinary directors fees (i.e., fees which are the same as those paid to all other directors). Applicants note further that Section 2(a)(9) of the Act expressly provides that a natural person shall be presumed not to be a controlled person. In view of the foregoing factors, Applicants submit that it would be misleading to shareholders and unfair to Mr. Randall to identify him as an interested director of the Funds or any Additional Fund since such a designation implies the existence of an actual or potential conflict of interest which, Applicants assert, does not and would not in fact exist.

As additional grounds for the granting of the exemption requested from Section 2(a)(19), Applicants undertake that, if the order hereby requested is issued, so long as Mr. Randall is a director or trustee of any of the Funds or of any Additional Fund, none of the Funds or Additional Funds will knowingly effect transactions with or through any of the Broker-Dealers—other than Blunt or Bateman—provided that OIS may enter into dealer agreements with any of the Broker-Dealers relating to the distribution of shares of any of the Funds or any Additional Funds. Applicants submit that it would be detrimental to the interests of the Funds and Additional Funds to prohibit OIS from effectuating arrangements for the distribution of shares of the Funds or of any Additional Fund with any of the Broker-Dealers. Applicants further state, that they do not believe it would be appropriate to impose as a condition to granting the order applied for herein that the Funds or any Additional Funds not effect securities transactions with Blunt or Bateman. In this regard, Applicants have applied for an exemption from Section 10(f) of the Act, which prohibits, in pertinent part, a registered investment company "from knowingly purchas[ing] . . . during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is a . . . person of which any . . . director [of the registered investment company] . . . is an affiliated person." Section 10(f) of the Act further provides that the Commission by rules or regulations upon its own motion, or by order upon application may conditionally or unconditionally, exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

With respect to their request for exemption from the provisions of Section 10(f), Applicants express their opinion that Blunt and Bateman are important factors in the broker-dealer community and significant resources for broker-dealer services. It is further stated that the Funds consider it not to be in their best interests, and believe that it would not be in the best interests of any Additional Funds to foreclose the possibility of dealing with these important resources. In addition, Applicants further undertake that, as a condition to the order requested, Mr. Randall will not vote on, or participate in board discussions with regard to, the allocation of any portfolio brokerage by the Funds or any Additional Funds, the selection of broker-dealers with which the Funds or any Additional Funds effect portfolio transactions as principal, the purchase, during the existence of any underwriting or selling syndicate, of any security with respect to which Blunt or Bateman is a principal underwriter, or on matters involving any relationship between the Funds, any Additional Funds, and any Broker-Dealers; provided, however, that for the purpose of determining the number of votes of interested as well as non-interested directors/trustees required to take action on any such matter, Mr. Randall will be counted as a director/trustee in determining the total number of directors/trustees, and will be counted as a non-interested director/trustee in determining the total number of non-interested directors/trustees; and provided further, that nothing set forth above is intended to limit or prohibit Mr. Randall from acting upon any matters relating to the approval or continuation of investment advisory or principal underwriting contracts.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than July 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19124 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18876; File No. SR-PCC-82-3]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 17, 1982, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exhange Commission the proposed rule change as described herein. The Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies in several respects an existing form contract ("Contract I") that sets forth several of the respective rights and obligations of PCC and users of PCC's Securities Collection Division ("SCD").[1]

[1]SCD facilitates the delivery of securities against payment between two PCC participants or between a PCC participant and a non-participant.

First, the proposal eliminates from Contract I the requirement that a user of the SCD Pledgeholder Program [2] have its bank execute a contract ("Contract II") with PCC establishing the respective rights and obligations of PCC and the bank regarding that program. PCC has eliminated Contract II because it believies that its only obligation to such banks is to pay them according to the SCD user's instructions. Second, the proposed rule change amends Contract I by (i) stating that it is binding upon successors in interest or assigns and legal representatives of PCC and the SCD user; and (ii) requiring an SCD applicant corporation or partnership to execute that contract before a notary public on approporation or partnership to execute that contract before a notary public on appropriate attestation forms provided in the rule change.

PCC believes that the porposed rule change is consistent with Section 17A(b)(F) of the Act in that the proposal promotes the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The foregong change has become effective, pursuant to Section 19(b)(3)(A) of the Act 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 Act.

Interested persons are invited to submit written data, views and arguents concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PCC-82-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating tod the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19119 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[2] The SCD Pledgeholder Program allows a seller of securities, who is delivery them through SCD, to obtain a loan from a bank secured by the proceeds of the sale. Upon receipt of the proceeds of the sale through SCD and upon the seller's instruction, SCD pays the proceeds to the bank, rather than to the seller.

[Release No. 12525; 812-5128]

Massachusetts Mutual Variable Annuity Fund 4, et al.; Application

July 7, 1982.

In the matter of Massachusetts Mutual Variable Annuity Fund 4, Massachusetts Mutual Variable Annuity Separate Account 2 and Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, MA 01111 (812-5128).

Notice is hereby given that Massachusetts Mutual LIfe Insurance Company ("Mass Mutual"), a mutual life insurance company organized under the laws of Massachusetts, and two separate investment accounts of Mass Mutual, Massachusetts Mutual Variable Annuity Fund 4, the name of which is to be changed to Massachusetts Mutual Variable Annuity Separate Account 1 ("Account 1") and Massachusetts Mutual Variable Annuity Separate Account 2 ("Account 2"), filed an application on March 2, 1982, and an amendment thereto on June 28, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") for an order of the Commission exempting Accounts 1 and 2 and Mass Mutual (herein collectively referred to as the "Applicants") from certain provisions of Sections 2(a)(32), 2(a)(35), 22(c), 22(e), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder and pursuant to Section 11 of the Act approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Background

Applicants state that Accounts 1 and 2 will be used for the purpose of investing purchase payments received under certain variable annuity contracts (the "Contracts"). Account 1 is used in connection with retirement plans which qualify for special Federal income tax treatment; Account 2, in connection with non-tax-qualified arrangements. Accounts 1 and 2 are registered under the Act as unit investment trusts and each has three divisions which invest in shares of three open-end, diversified management investment companies organized by Mass Mutual (the "Funds"). Shares of the Funds are held by Mass Mutual as custodian for Accounts 1 and 2 on an open-account basis and are not represented by stock certificates.

At any time prior to the maturity date of a Contract, the contractowner may direct that purchase payments minus any applicable premium taxes be applied to purchase accumulation units in one of more divisions of the separate account pursuant to which the Contract has been issued. Under the Contracts, all or part of the accumulation units in any division of a separate account may be cancelled and the value thereof used to purchase accumulation units in any other division of that separate account. Thus, owners of contracts will, up to 30 days prior to the maturity date of their Contract, be able to choose as their underlying investment medium a Fund having different investment objectives from their previously selected Fund. Any transfer will be made at the value of an accumulation unit in that division on the date of transfer. No charge or expense will be deducted in connection with such transfers. Such transfers will be made at the written direction of the contractowner and will be effective as of the valuation date which is on, or next follows, the date the written direction is received by mail at the home office of Mass Mutual, except that if the written direction is received otherwise than by mail it will be effective as of the first valuation time after receipt.

Applicants state that purchase payments under the Contracts will be subject to deductions only for any then applicable premium taxes imposed by some states and governmental entities, which presently range from 0% to 2.5%, except when and as permitted by state law, Mass Mutual postpones computation and deduction until the maturity date of the Contract. Applicants state that there are four types of charges which Mass Mutual may assess against the Contracts: (1) An asset charge for mortality and expense risks assumed by Mass Mutual; (2) an administrative charge for administrative expenses of Mass Mutual in connection

with the Contracts; (3) a deduction for premium taxes, if any, payable by Mass Mutual in connection with the Contracts, and (4) a contingent deferred sales charge.

Applicants state that Mass Mutual makes a daily deduction in computing the value of accumulation units and annuity units in Accounts 1 and 2 at the annual rate of 1.25% of the value of the Accounts which is designed to compensate Mass Mutual for assuming the mortality and expense risks under the Contracts. It is estimated that .45% is to compensate Mass Mutual for the mortality risks, and that .80% is to compensate Mass Mutual for the expense risks that the administrative charge will be inadequate to provide for Mass Mutual's administrative expense related to the issuance and maintenance of the Contracts and that the contingent deferred sales charges will be inadequate to cover all expenses for commissions, sales literature and related costs which are borne by Mass Mutual's general account surplus in distributing the Contracts ("distribution expenses").

Applicants state that an annual administrative charge of $30 (which may be increased by Mass Mutual to not more than $50) will be deducted by Mass Mutual from the accumulated value of each Contract to reimburse Mass Mutual for administrative expenses relating to the issuance and maintenance of the Contract. This administrative charge is deducted on the anniversary date of each Contract, upon maturity, and upon payment of the value of the Contract on other than the anniversary date because of a full redemption or death of the variable annuitant prior to maturity if the death benefit paid at that time is the accumulated value of the Contract. The administrative charge is designed only to reimburse Mass Mutual for such expenses and Mass Mutual does not expect to recover from this charge any amount in excess of accumulated expenses.

Applicants state that redemptions may result in the imposition of a contingent deferred sales charge except that no such charge is made in connection with a surrender of a Contract within 10 days after its delivery to a contractowner or if the proceeds are transferred to another division of the applicable separate account. Furthermore, no contingent deferred sales charge is applied upon the redemption of any unpaid payments certain after the maturity date of a Contract, to the death benefit provided in the Contract payable upon the death of the variable annuitant before the maturity date of the Contract, or to amounts applied at maturity to acquire variable annuity payments. Amounts applied at maturity to a lump sum payment or to acquire a fixed monthly annuity, however, are considered to involve a redemption and may be subject to a contingent deferred sales charge as provided below.

Applicants state that the contingent deferred sales charge is assessed as a percentage of the amount redeemed, taken as a lump sum payment at maturity or applied to acquire a fixed monthly annuity. The following description is applicable whether the amount is taken in cash or applied to acquire a fixed monthly annuity. Mass Mutual represents that it will always process the redemption request so that accumulation units with the lowest applicable sales charge percentage will be redeemed first.

Generally, accumulation units purchased with the first $3,000 of cumulative purchase payments under the Contract are subject to a charge of 11% of the value of the accumulation units if they are redeemed in the same contract year in which they were purchased, reducing 1% each contract year to 0% if they are redeemed in a contract year ending eleven or more years after the contract year in which they were purchased. Accumulation units purchased with comulative purchase payments in excess of $3,000 but not more than $35,000 are subject to a charge of 5% of the value of the accumulation units if they are redeemed in the same contract year in which they were purchased, reducing 1% each contract year to 0% if they redeemed in contract year ending five or more years after the contract year in which they were purchased. Accumulation units purchased with cumulative purchase payments in excess of $35,000 may be redeemed at any time without the imposition of any sales charge.

There are two limits on sales charges imposed under the Contracts. First, beginning with the fifth contract year, 10% of the number of accumulation units in each division of the applicable separate account on the last day of the preceding contract year may be redeemed at any time during the contract year without the imposition of any sales charge. This 10% "free corridor" is noncumulative in that any unused balance at the end of the contract year is not carried over into the following Contract year. However, each contract year after the fifth contract year generates a new free corridor equal to 10% of the number of accumulation units in each division under the Contract on the last day of the preceding Contract year. Applicants state that the application of the 10% "free corridor" does not change the order in which accumulation units are redeemed; it simply eliminates any sales charge that would otherwise be made. Second, the total contingent deferred sales charge deducted in connection with redemptions under a Contract will never exceed 8.5% of the cumulative purchase payments made under the Contract; the sales charge applicable to the current redemption would be reduced by the amount of the excess.

For the purpose of determining the applicable charge upon the subsequent redemption of accumulation units acquired in a transfer from another division, such accumulation units will be deemed to have been aquired in the contract year and with the cumulative purchase payment used to purchase the original accumulation units. In addition, a proportionate part of the 10% free corridor is transferred. The contingent deferred sales charge will not be assessed against any accumulation units which have been purchased with proceeds payable in a lump sum prior to or at maturity under fixed-dollar life insurance, or variable or fixed-dollar annuity contracts issued by Mass Mutual where the proceeds were not subject to a surrender charge.

Approvals for Offers of Exchange

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security of the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to an approved by the Commission. Section 11(c) provides that, irrespective of the basis for the exchange, the provisions of subsection (a) shall be applicable to any type of offer to exchange the securities of registered unit investment trusts for the securities of any other investment company.

Applicants request Commission approval under Section 11 to permit transfers among divisions of the Accounts, as described above. Applicants also request approval under Section 11 to permit the exchange of other contracts issued by Account 1 and of variable annuity contacts which

depend on the investment performance of Massachusetts Mutual Variable Annuity Fund 1 ("Annuity Fund 1") for the Contracts offered by Account 1 and to permit the exchange of variable annuity contracts which depend on the investment performance of Massachusetts Mutual Variable Annuity Fund 2 ("Annuity Fund 2") for the Contracts offered by Account 2. Annuity Funds 1 and 2 are registered unit investment trusts, all assets of which are invested in one of the Funds. Aunnity Fund 1 issues contracts for use in connection with retirement plans which qualify for special Federal income tax treatment. Annuity Fund 2 issues contracts for use in connection with non-tax-qualified arrangements. Applicants state that the purpose of providing for such exchanges is to provide contractholders flexibility in choosing the investment medium or form of contract they believe desirable.

Such exchanges would be made by applying the proceeds of the surrendered contract to purchase accumulation units in Accounts 1 and 2 at their accumulation unit value detemined as of the valuation date which is on, or next follows, the date the written exchange direction is received by mail at the home office of Mass Mutual, except that if the exchange direction is delivered otherwise than by mail, it will be effective as of the first valuation time after receipt. No charges or deductions will be made with respect to such exchanges. Applicants state that since such surrendered contracts were sold with an initial sales charge deducted from purchase payments, the accumulation units purchased in such exchanges with any such proceeds payable in a lump sum prior to or at maturity will not be subject to the contingent deferred sales charges otherwise generally applicable to the Contracts as described below. Such exchanges will not be actively solicited by the Applicants and will be made at the unilateral request of the contractowner.

Exemptive Relief Requests

As here relevant, section 27(c)(2) of the Act prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such periodic payment plan certificates unless, among other things, the proceeds of all payments (other than any sales charge) are deposited with a qualified bank acting as trustee or custodian and held under an indenture or agreement containing the provisions required by sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that the custodian or trustee may collect from income, and, if necessary, the corpus of the trust, fees for services theretofore performed and reimbursement for expenses theretofore incurred, except that no payment to the depositor or principal underwriter shall be allowed the custodian or trustee as an expense except as a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping or other administrative services. Applicants request exemption from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit deduction of the asset charge, administrative charge, premium taxes, and contingent deferred sales charges described above.

Section 2(a)(32) of the Act defines a redeemable security as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) of the Act requires that any periodic payment plan certificate be a redeemable security. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances for his account value plus the recovery of certain front-end sales charges. Applicants assert that the imposition of the contingent deferred sales charge on certain redemptions does not violate the provisions of sections 2(a)(32), 27(c)(1) and 27(d) of the Act and request exemptions from those provisions to the extent necessary or appropriate to permit the offer and sale of the Contracts with the contingent deferred sales charge described above.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants submit that the proposed pricing structure of the Contract is consistent with the intent of the definition of sales load contained in the Act and request an exemption from section 2(a)(35) to the extent necessary to permit the Applicants to effectuate that proposed pricing structure.

Rule 22c–1, promulgated pursuant to section 22(c) of the Act, prohibits a registered investment company issuing redeemable securities, such as the Contracts, from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that the imposition of a contingent deferred sales charge does not in effect result in receipt by the contractowner of a price less than current net asset value and respectfully request an exemption from section 22(c) and Rule 22d–1 to the extent necessary to permit the offer and sale of the Contracts with the contingent deferred sales charge described above.

Applicants also submit that the imposition of the administrative charge where there is a full redemption of a Contract on other than its anniversary date does not violate sections 2(a)(32), 22(c), 27(c)(1) or 27(d) of the Act or Rule 22c–1 thereunder. However in order to avoid the possibility of the applicability of these sections and rule, Applicants request exemptions therefrom to the extent necessary to permit the offer and sale of the Contracts with the administrative charge as described above.

As noted previously, Rule 22c–1, promulgated pursuant to section 22(c) of the Act, prohibits a registered investment company issuing a redeemable security, a person designated in such company's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, any such security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or repurchase or of an order to purchase or sell such security.

Applicants request an exemption from section 22(c) and Rule 22c–1 so as to permit the application of purchase payments received under the Contracts, as well as the determination of death benefits and redemption values under the Contracts, to be based on valuations as of the close of the New York Stock Exchange (the "Exchange") on the date the purchase payment, request for redemption or notice of death is received, regardless of whether such receipt on that day was before or after the close of the Exchange, provided that the purchase payment, request for redemption, or notice of death is received by mail. If received otherwise than by mail, the valuation as of the close of the Exchange next occurring after receipt would be applicable.

As noted above, sections 26(a) and 27(c)(2) of the Act, in substance, prohibit a depositor of or principal underwriter for a registered unit investment trust from selling any periodic payment plan

certificate issued by such a trust unless the certificate is issued pursuant to a trust indenture, agreement of custodianship or other instrument which provides (1) that the securities and other property of the trust shall be held by a custodian or trustee which is a qualified bank; (2) that the custodian or trustee shall not resign until either the trust has been liquidated or a qualified successor custodian or trustee has been appointed; and (3) that a record be kept of the interest of each holder of a security, and that security holders be notified as to any substitution of underlying securities.

Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit (1) Mass Mutual itself to hold the property and assets of Accounts 1 and 2 in custody for safekeeping, rather than under an agreement of trust with a bank; and (2) the share of the Funds in which the assets of Accounts 1 and 2 are invested to be held by Mass Mutual on an open: account basis rather than to require the holding of physical share certificates.

The State of Texas in 1967 directed the governing boards of all Texas institutions of higher education to make available to their faculty members and Optional Retirement Program ("ORP") as an alternative to the existing Teachers Retirement System. The ORP was originally codified as Subchapter G of Chapter 51 of the Texas Education Code. Effective September 1, 1981, Subchapter G of Chapter 51 was repealed and Title 110B of the Texas Revised Civil Statutes, Public Retirement Systems, was enacted. Section 36.105 of Chapter 36 of Title 110B of the Texas Revised Civil Statutes provides that the benefits of an annuity purchased under the ORP are available only if the participant terminates participation in the program by death, retirement or termination of employment in all institutions of higher education.

Sections 27(c)(1) and 27(d) of the Act are summarized above. Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Applicants assert that absent the requested relief, participants in the ORP will be denied an opportunity to select, through the purchase of a Contract issued by Account 1, a funding medium for their retirement benefits which is one of the funding media specifically provided in the Texas statute for such purpose. Applicants thus request exemptions for the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Texas law as it pertains to redemption values under Contracts issued by Account 1 to participants in the ORP.

Applicants submit that they will ensure that appropriate disclosure is made to persons who consider participation in the ORP, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in the prospectus of Account 1 to the restrictions on redemption of these Contracts, as well as requiring each participant, as part of a determination that the sale of these Contracts is suitable for the participant, to sign a statement indicating the he is aware that these restrictions will be placed on his Contract when it is issued. In addition, Mass Mutual will review all sales literature that is to be used in conjunction with the sale of these Contracts to ensure that the restrictions on redemptions to be placed on these Contracts are disclosed and will instruct the sales people involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c)

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than July 30, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application will be issued as of course following July 30, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19144 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22572; 70–6748]

National Fuel Gas Co., et al.; Proposal To Make Loans to Transfered Employees

July 9, 1982.

In the matter of National Fuel Gas Co., 30 Rockefeller Plaza, New York, New York 10112; National Fuel Gas Supply Co., 308 Seneca Street, Oil City, Pennsylvania 16301; Penn-York Energy Corp., 10 Lafayette Square, Buffalo, New York 14203; National Fuel Gas Distribution Corp., 10 Lafayette Square, Buffalo, New York 14203; and Seneca Resources Corp., 333 Clay Street, Houston, Texas 77002 (70–6748).

National Fuel Gas Company ("National"), a registered holding company, and National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation, Penn-York Energy Corporation and Seneca Resources Corporation, subsidiaries of National (collectively referred to herein with National as the "System Companies" or "Applicants") have filed an application, and an amendment thereto, with this Commission pursuant to the Sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and applicable rules promulgated thereunder.

Applicants request authority to make loans to supervisory employees pursuant to a transfer reimbursement policy adopted in 1981 by the System Companies, a copy of which has been filed with this Commission. In light of current adverse market conditions and the timing problems inherent in the expeditious sale of a transferred employee's residence, the policy, in

addition to reimbursements for a variety of relocation expenses, provides for the making of loans, on a discretionary basis, in an amount not to exceed an employee's equity in the home being sold. Each loan would be evidenced by an interest-free demand note to be repaid within thirty (30) days of the sale of the residence or upon demand by the System Company.

Applicants assert that the authority to issue these loans pursuant to the official transfer policy and without prior case-by-case Commisson approval will enhance their ability to make timely and effective personnel decisions for the benefit of overall system operations. Detrimental costs to the interest of investors and consumers will increase without such authority. It is noted that no employee loan policy exists other than for transferred employees and at any one time the total amount of such employee loans has not exceeded $350,000.

Applicants propose that loans to employees under the transfer policy be reported on an annual basis as part of the Form U5S reporting requirement. All proposed changes in the transfer policy would be submitted by letter to the Commission not less than sixty (60) days prior to their effective date. If the Commission within the sixty (60) day period notifies applicants that a question exists as to whether any proposed change is consistent with provisions of the Act or of any rule, regulation or order thereunder, the proposed change will not become effective unless and until the Applicants have filed with the Commission an appropriate declaration or application regarding the proposed change and the Commission has permitted the declaration to become effective or has approved the application.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 4, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19146 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12529; 811-674]

North River Securities Co., Inc.; Filing of Application

July 8, 1982.

In the matter of North River Securities Co., Inc., 595 Madison Avenue, New York, New York 10022 (811-674).

Notice is hereby given that North River Securities Co., Inc. ("Applicant"), a New York corporation registered under the Investment Company Act of 1940 ("Act"), through its successor North Oceanic Securities Co., Inc. ("North Oceanic") filed an application on May 25, 1982, requesting an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant, a closed-end management investment company, has ceased to be an investment company, as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant was organized on January 10, 1952, and was registered under the Act on April 11, 1955. Applicant represents that pursuant to a Plan of Merger approved by its Board of Directors in accordance with Section 905 of the New York Business Corporation Law, Applicant on May 21, 1982 merged into North Oceanic, a New York corporation incorporated on October 5, 1981. Applicant states that on the date immediately preceding the date of the merger of Applicant into North Oceanic (the "Merger"), North Oceanic owned approximately 97% of the outstanding common stock of Applicant. Applicant further states that under the terms of the Merger, the shareholders of Applicant (other than North Oceanic) are to receive cash representing the fair value of their shares ($15.11) and do not have any interest in North Oceanic, the surviving corporation.

According to the application, North Oceanic is not subject to the registration requirements of the Act by virtue of Section 3(c)(1) thereof because its outstanding securities are beneficially owned by fewer than 100 persons and it does not propose to make a public offering of its securities. Applicant avers that following its merger into North Oceanic, it no longer had independent legal existence under the laws of the State of New York.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19145 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12524; 812-5140]

Prudential Insurance Company of America; Application

July 7, 1982.

In the matter of The Prudential Insurance Company of America, the Prudential Variable Contract Account-10, and The Prudential Variable Contract Account-11, Prudential Plaza, Newark, NJ 07101 (812-5140).

Notice is hereby given that The Prudential Insurance Company of America ("Prudential"), a mutual life insurance company organized under the laws of New Jersey, The Prudential Variable Contract Account-10 ("VCA–10") and the Prudential Variable Contract Account–11 ("VCA–11") (collectively the "Accounts"), two separate accounts of Prudential registered under the Investment Company Act of 1940 ("Act") as open-end, management investment companies (sometimes referred to as "Applicants"), filed an application on March 19, 1982, and an amendment thereto on July 6, 1982, for an order of the Securities and Exchange Commission pursuant to Section 6(c) of the Act granting exemptions, to the extent requested, from Sections 2(a)(32), 2(a)(35), 15(a), 16(a), 22(c), 22(d), 26(a), 27(c)(1), 27(c)(2), 27(d) and 32(a) of the Act and Rule 22c–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein which are summarized below.

Background

According to the application, the Accounts were established on January 12, 1982, as separate accounts of Prudential for the purpose of funding certain variable accumulation contracts ("Contracts"). Prudential is the investment manager for the Accounts and may be deemed to be the principal underwriter of the Contracts. Applicants assert that the Contracts will be issued in connection with certain tax-benefited retirement arrangements. Amounts accumulated in these Accounts may be used in order to purchase the fixed-dollar annuity available under the Contracts. The Contracts do not provide for a variable annuity.

Two Contracts will be offered. One provides for the investment of contributions in VCA–10. The other provides for the investment of contributions in VCA–11. The Contracts ordinarily will be issued to employers ("Contract-holders") who will make contributions under them on behalf of their employees ("Participants"). Contributions may also be made for Participants under a companion fixed-dollar annuity contract ("companion contract"). A Contract-holder's "Program" will consist of one or more of the Contracts funded through the Accounts and the companion contract, as the Contract-holder may elect. Applicants state that Participants will designate how contributions made on their behalf will be allocated among the contracts that comprise the Contract-holder's Program. This allocation may be changed from time to time by the Participants by notifying Prudential. Prudential will establish an accumulation account in the name of a Participant in each Account in which he invests. The value of an accumulation account in VCA–10 or VCA–11, as the case may be, will vary with the investment results of that Account.

Applicants declare that no sales charge will be deduted from any contribution when it is made. A deferred sales charge may be assessed, however, when a contribution is withdrawn. The deferred sales charge will be imposed only upon contributions withdrawn by the Participants during the first 15 years of his participation in a Program. For Participants covered by a tax-deferred annuity or a Keogh Plan, the deferred sales charge will be 7% upon contributions withdrawn during the first two years of participation, 6% during the next three years, 4% during the next five years, and 3% during the eleventh through fifteenth yeers. For Participants covered by an individual retirement annuity or an eligible deferred compensation plan, the charge will be one percentage point lower in each time bracket.

Applicants assert that withdrawals will be deemed to be made up of contributions until all of a Participant's contributions to an Account have been withdrawn. Transfers of contributions among the Accounts and the companion contract will be treated as withdrawals of contributions from the Account from which the transfer is made, but no deferred sales load will be imposed upon them. They will, however, be treated as contributions to the Account to which the transfer is made for purposes of determining the deferred sales load, if any, upon subsequent withdrawals from that Account

Applicants state, as noted above that under the Contracts, amounts may be transferred from VCA–10 or VCA–11 without the imposition of a deferred sales charge; that a Participant's accumulation account in VCA–10 or VCA–11 may be maintained for his beneficiary in the event the Participant dies before that account is cancelled and although the beneficiary may make withdrawals from the Account just as the Participant could, no deferred sales charge will be imposed upon any withdrawal by a beneficiary; and that no deferred sales charge will be imposed upon any withdrawal by a Participant who has been in a Program for three years to purchase the fixed-dollar annuity available under the Contracts. Applicants further assert that no deferred sales charge will be made upon the cancellation by Prudential of inactive, small-balance accounts, and tha there will be no deferred sales charge upon withdrawals received as one-sum cash payments in lieu of annuities where the first monthly annuity payment would be less than the minimum specified in the Contract and where the withdrawal is made after the Participant has been in a Program for three years, and that no deferred sales charge will be imposed upon withdrawals made to effectuate transfers to an accumulation account established for the same Participant under a Contract to another employer.

Applicants state that an annual account charge for administrative expenses will be made against each Participant's accumulation accounts under a Program. This charge will not exceed $20 for any calendar year and may be divided among the Participant's accumulation accounts in VCA–10, VCA–11 and under a companion contract. The charge will be made on the last business day of each calendar year or upon the withdrawal in full of all of a Participant's accumulation accounts under a Program. Also, a daily deduction will be made against each Participant's accumulation accounts in VCA–10 and VCA–11, computed at an effective annual rate of 1.00%. This deduction is made up of 0.25% (¼ of 1%) for investment management services and 0.75% (¾ of 1%) for administrative expenses not covered by the annual account charge. The deferred sales and annual account charges may be changed by Prudential after a Contract has been in effect for two years. The daily deduction for administrative expenses may be changed by Prudential after a Contract has been in effect for five years. Prudential performs the administrative functions for the Accounts. Applicants state that any premium or other taxes imposed by a state or other governmental entity will be deducted from a Participant's accumulation account in VCA–10 or VCA–11 on the date an annuity is purchased.

Applicants state that if the distribution expenses incurred by Prudential in connection with the sale of the Contracts exceed the revenues it realizes from the imposition of the deferred sales charge, the difference will be met out of Prudential's unassigned surplus, which will include the profit it will realize from the charges for investment management services to VCA–10 or VCA–11. The application asserts that the profit Prudential expects to derive from these charges is reasonable, legitimate and not

excessive. The application states that if the actual mortality of annuitants is greater than that assumed in constructing the schedule of annuity rates used in determining the amount of fixed-dollar annuities that are purchased with funds withdrawn from VCA–10 and VCA–11 under the Contracts, the resulting gains will also be added to Prudential's surplus. The application further states that Prudential has represented to the other applicants that those gains will also be reasonable, legitimate and not excessive, and that, when combined with the profits to be derived from the charges for investment management services, are expected to exceed the amount, if any, by which distribution expenses in connection with the Contracts exceed collections of deferred sales charges over the long term.

Exemptive Relief Requested

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants request an exemption from the provisions of Section 2(a)(35) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act requires that the holder of a periodic payment plan certificate be able to surrender that certificate within a specified time and receive the value of his account and any sales charges in excess of a certain percentage. The Application states that the Contracts may be deemed to be periodic payment plan certificates as defined in Section 2(a)(27) of the Act. Applicants request an exemption from the definition of redeemable security in Section 2(a)(32) and from the requirements of Section 27(d) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 22(c) of the Act and Rule 22c–1 thereunder prohibit a registered investment company issuing redeemable securities from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of the security. Applicants assert that the imposition of the deferred sales charge does not violate either of these provisions because the payment received by a Participant will be based on the current net asset value of his accumulation account. However, in order to avoid any uncertainty, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent necessary to permit them to impose the deferred sale charge.

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants submit that the imposition of a deferred sales charge does not restrict redemption within the meaning of Section 27(c)(1), but in order to avoid any uncertainty, they request an exemption from the provisions of Section 27(c)(1) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 27(c)(2) of the Act provides that an investment company may not offer periodic payment plan certificates unless, among other things, the proceeds of all payments (other than the sales load) on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by that trustee or custodian under an indenture or agreement containing, in substance, the provisions required by Section 26(a)(2). Section 26(a)(2)(C) provides that no payments to the depositor of, or principal underwriter for, a registered unit investment trust (or any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally perormed by the trustee or custodian. Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent deemed necessary to permit them to impose the deferred sales charge. Furthermore, Applicants request an exemption from Sections 27(c)(2) and 26(a) to the extent deemed necessary to permit the deduction by and the payment to Prudential of (1) the daily asset and annual account charges for administrative expenses, (2) any applicable premium taxes, and (3) the fee for investment management services, as described above.

Since, according to Applicants, the full annual account charge will be deducted from a Participant's accumulation account in VCA–10 or VCA–11 if the Participant makes a full withdrawal of all of his accumulation accounts, *i.e.*, those that may be maintained for him in both Accounts and under a companion contract, Applicants request an exemption from the provisions of Sections 2(a)(32), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit the deduction of the annual account charge in such circumstances.

Section 22(d) of the Act provides in relevant part that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a public offering price described in the prospectus. Applicants request an exemption from the provisions of Section 22(d) to the extent necessary to permit Applicants not to impose the deferred sales charge in circumstances described above. Applicants argue that their proposals will not unfairly discriminate against any person. They claim that the withdrawals upon which no deferred sales charge will be imposed are properly distinguishable and are made under circumstances in which it would be inequitable to assess a sales charge.

Section 15(a) of the Act provides that no person is permitted to serve or act as investment adviser of a registered investment company pursuant to a written contract which, among other things, has been approved by a vote of a majority of the outstanding voting securities of such registered company. Section 16(a) of the Act provides that no person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company at an annual or a special meeting duly called for that purpose. Section 32(a)(2) of the Act provides that is shall be unlawful for a registered management company to file with the Commission any financial statement signed or certified by an independent public accountant unless the selection of such accountant shall have been submitted for ratification or rejection at the annual meeting next succeeding the selection of such accountant by the board of directors.

Each of the Accounts is under the general supervision of a committee ("Committee") comprised of five members ("Members") initially selected by Prudential. Under the respective rules and regulations of the Accounts, the first annual meeting of Participants in the respective Accounts is to be held

on the second Thursday of September of each year after 1982 or on any other day of any year as may be determined by the Account's Committee. Applicants represent that the initial meeting of an Account's Participants will be held no later than September 8, 1983. At each annual meeting, according to Applicants, vote will be taken on the election of Members of the Committees, the approval of an investment management agreement between Prudential and each of the Accounts, and the ratification of the selection of the independent public accountant for each of the Accounts. Although Prudential will provide the initial capital for each of the Separate Accounts, it has no voting rights in respect thereof.

Applicants request exemption from the requirements of Sections 15(a), 16(a) and 32(a)(2) of the Act so that each of the Accounts may operate without such election, approval and ratification by persons having voting rights until action with respect to those matters is taken at an initial meeting of Participants in the respective Accounts to be held no later than September 8, 1983.

Section 6(c)

Section 6(c) of the Act authorises the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested party may, not later than July 30, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he many request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 30, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19143 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 10/10–0168]

C. H. Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), C. H. Capital Corporation, 11201 S.E. 8th, Suite 163, Bellevue, Washington 98004, incorporated under the laws of the State of Washington, has surrendered its License No. 10/10–0168, issued by the SBA on September 12, 1979.

C. H. Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of C. H. Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 9, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19220 Filed 7–14–82; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2053]

New Jersey; Declaration of Disaster Loan Area

The Township of Berkley, in the County of Ocean, in the State of New Jersey constitutes a disaster area as a result of damage caused by a tornado which occurred on June 29, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 6, 1982, and for economic injury until the close of business on April 8, 1983, at the address below: U.S. Small Business Administration, Peter W. Rodino, Jr. Office Building, 970 Broad Street, Room 1435–D, Newark, New Jersey 07102, or other locally announced locations.

	Percent
Homeowners with credit available elsewhere	15⅜
Homeowners without credit available elsewhere	7⅞
Businesses with credit available elsehwere	16½
Businesses without credit available elsehwere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 8, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82–19219 Filed 7–14–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0320]

RIHT Capital Corp.; Issuance of License

On April 6, 1982, a Notice was published in the **Federal Register** (47 FR 14822) stating that an application had been filed by RIHT Capital Corporation, One Hospital Trust Plaza, Providence, Rhode Island 02903, with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC's) under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 21, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 01/01–0320 to RIHT Capital Corporation, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: July 9, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-19221 Filed 7-14-82; 8:45 am]

BILLING CODE 8025-01-M

Privacy Act of 1974; Proposed Revision of Systems of Records

AGENCY: Small Business Administration (SBA).

ACTION: Notice of Revision of Systems of Records.

SUMMARY: It is intended that the Systems of Records maintained by SBA be amended by this publication.

DATES: Comments must be received on or before August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to add a new system to the Agency's Systems of Records.

NOTICE: Proposed new system of records.

In 41 FR 41647, and in a notice of proposed new systems in 42 FR 12108, the Small Business Administration published notices of systems of records in compliance with The Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

Notice is hereby given that SBA has submitted a proposed addition to the systems of records pursuant to guidelines of the Office of Management and Budget regarding the preparation and submission of reports by Federal Agencies of their intention to establish or alter systems of records as required by The Privacy Act of 1974.

Any person interested in commenting on the following proposed additional system may do so by submitting comments in writing to Administrator, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. Comments must be submitted on or before August 16, 1982.

Dated: July 8, 1982.

James C. Sanders,

Administrator.

SBA-450

SYSTEM NAME:

Temporary Disaster Employees

SYSTEM LOCATION:

Disaster Assistance Division, Small Business Administration, 1441 L Street, NW., Washington, D.C.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary employees of the Disaster Assistance Division. These records contain name, address, telephone number where person can be reached, grade, specialty, date of and reason for termination, and summary of supervisor's evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records will be used by Disaster Area Directors and personnel officers assigned to each Disaster Area to verify previous employment history when a former employee is considered for reemployment.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records will be maintained in card files.

RETRIEVABILITY:

These records will be filed alphabetical by the individual's last name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosures.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Administrator, For Disaster Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Disaster Area Directors.

[FR Doc. 82-19186 Filed 7-14-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement on Runway 15-33 Extension at Barnstable Municipal Airport, Hyannis, Massachusetts, and Notice of Scoping Meeting

The Federal Aviation Administration, New England Region, and the Barnstable Airport Commission, acting as joint lead agencies, intend to prepare a Federal Environmental Impact Statement/State Environmental Impact Report on: Runway 15-33 extension, with a parallel taxiway; an Instrument Landing System (ILS); and a Medium Intensity Approach Lighting System (MALSR), at Barnstable Municipal Airport, Hyannis, Massachusetts. It is also proposed to acquire land interests in approximately 25 acres for meeting the clearance criteria and runway approach protection. Alternative runway lengths ranging between no extension to a maximum of 1,650 foot extension of Runway 15 will be evaluated.

A joint Federal and State Scoping Meeting will be held on Tuesday, August 17, 1982, at 2 p.m. at the Public Hearing Room, Barnstable Town Hall, South Street, Hyannis, Massachusetts. The meeting will be held to identify the significant issues related to the proposed development and consider a scope of work to address those issues to this EIS. As a part of the follow up scoping process, the study team members will be available from 5 p.m. to 8 p.m. on the same day and at the same place to further discuss the relevant issues with the interested persons. All interested agencies, organizations, and persons are invited to attend and provide input and comments to finalize the scope of work.

Inquiries about the proposed action should be directed to: M. Ashraf Jan, Environmental Specialist, FAA, Airports Division, 12 New England Executive Park, Burlington, MA 01803, Telephone No. (617) 273–7233.

Dated: July 1, 1982.

Vincent A. Scarano,

Chief, Planning and Programming Branch, Airports Division.

[FR Doc. 82–19050 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Bernalillo County, New Mexico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to a Draft Environmental Impact Statement will be prepared for a proposed highway project in Bernalillo County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dewey O. Lonsberry, Program Development Engineer, Federal Highway Administration, 117 U.S. Courthouse, Santa Fe, New Mexico 87501, Telephone: (505) 988–6136; Donald Lepic, Technical Services Engineer, New Mexico State Highway Department, P.O. Box 1149, Santa Fe, New Mexico 87503, Telephone: (505) 983–0554; or James Milton, Transportation Planner, Transportation Department, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103, Telephone: (505) 766–4700.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway Department and the City of Albuquerque, Transportation Department, will prepare a Supplemental Environmental Impact Statement (EIS) on a proposal to extend Juan Tabo Boulevard south to Wagon Train Drive in Albuquerque, New Mexico. Three alternate routes connecting Wagon Train Drive to Juan Tabo Boulevard and the no build alternate have already been addressed in a draft Environmental Impact Statement (New Mexico Project Number: M–4065(3)), released for public review and comment August 25, 1981. The Supplement to the Draft Environmental Impact Statement is required to address the location and impacts of a new route proposed by an interested party, at a public hearing held September 30, 1981.

The new route, which is approximately 0.85 miles in length, begins at the intersection of Wagon Train Drive at Via Posada, extends northwesterly across the Tijeras Arroyo, and terminates at Juan Tabo Boulevard, south of La Puerta Avenue. Improvements in the corridor are considered necessary to provide adequate capacity for existing and projected traffic demands, avert future congestion, and accommodate in-fill development of approximately 900 acres of undeveloped land.

No formal scoping meeting is planned at this time. A public hearing will be scheduled upon completion of the Draft Supplemental Environmental Impact Statement. A public notice will be given of the time and place of the hearing. The draft Supplemental Environmental Impact Statement will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposal and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: July 2, 1982.

Dewey O. Lonsberry,

Program Development Engineer Santa Fe, New Mexico.

[FR Doc. 82–18869 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement Nashville, Davidson County, Tenn.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Nashville, Davidson County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal highway Administration, Federal Building, U.S. Courthouse, 801 Broadway, Suite A–926, Nashville, Tennessee 37203, telephone (615) 251–5394.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct the proposed Briley Parkway in Davidson County, Tennessee. The proposed improvement would involve the construction of a new four-lane highway including a new bridge over the Cumberland River. The proposed project begins at the existing intersection of Briley Parkway and Centennial Boulevard and extends north crossing the Cumberland River at stream mile 182. After crossing the Cumberland River, the proposed traverses the northwestern section of Davidson County. The proposed project ends at Knight Road. Depending on the alternative selected, the proposed improvement would have a length of approximately 8.2 miles to 8.9 miles. Improvements are considered necessary to provide for the existing and project traffic demand.

Alternatives under consideration include (1) taking no action; (2) mass transit; (3) transportation system management; (4) constructing a four-lane limited access roadway on new location.

Three public meetings have been held in Nashville, two meetings in 1978 and one meeting in 1982. Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies on October 22, 1981. These activities are providing input regarding the scope of the EIS. A corridor public hearing and a design public hearing will be held.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued July 8, 1982.

Eward G. Oakley,

Division Administration, Tennessee Division, Nashville, Tennessee.

[FR Doc. 82–19134 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. IP81-22; Notice 2]

General Motors Corp.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. ("GM") of Warren, Michigan 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 a noncompliance with 49 CFR 571.101–80, Motor Vehicle Safety Standard No. 101–80, *Controls and Displays*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on November 18, 1981, and an opportunity afforded for comment (46 FR 56296).

Paragraph S5.2.1 and Table I of Standard No. 101–80 require that a hand-operated control, combining windshield wiping and washing functions on any motor vehicle manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol.

GM has produced about 140 Brigadier trucks since September 1, 1980, in which the combination control was identified by the wiping symbol only; omitted were the dashed lines indicating a jet of water. GM did not say whether identification has been provided also through use of the optional wording permitted by Standard No. 101–80, but it argued that the noncompliance is inconsequential because a dual function control is commonly used on motor vehicles. Further, the function of the control is explained in the Operator's Manual.

No comments were received in response to the notice.

The agency believes that the professional drivers who operate these heavy duty vehicles will recognize the function of the control without any difficulty as it is the only control provided for the wipe/wash functions. Failure to provide the washing portion of the wipe/wash symbol is therefore deemed to be inconsequential as it relates to motor vehicle safety.

Accordingly, it is found that petitioner has met its burden of persuasion, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(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 July 7, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18797 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP81-19; Notice 2]

General Motors Corp.; Grant of Petitions for Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. of Warren, Michigan 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 two noncompliances with 49 CFR 571.101–80, Motor Vehicle Safety Standard 101–80, *Controls and Displays*. The basis of the petition was that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of the petition was published on October 29, 1981, and an opportunity afforded for comment (46 FR 53576).

Paragraph § 5.2.1 and Table I of Standard No. 101–80 require that a rear defroster control, on any passenger car manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol. At its option, the manufacturer may also provide the identifying words "Rear Def." Use of an identifying word was mandatory before September 1, 1980, and no symbols were allowed.

General Motors has produced over 4,600 of its Oldsmobile 88 and 98 models since September 1, 1980, in which the rear defroster control was identified only by the words "Rear Def", complaint with Standard No. 101, but noncomplaint with Standard No. 101–80. General Motors argued that use of the previously acceptable wording creates no safety hazard as it is readily understandable by the public, and more likely to be understood at this point than by use of the symbol alone.

In over 115,000 1981 Chevrolets, the symbol has been provided but the word identification of the rear defogging control, instead of "Rear Defog" or "Rear Def" has appeared as "R/Defog" or "R.Defog." General Motors argued that the identification is readily understandable.

No comments were received in response to the notice.

The agency concurs with petitioner's conclusion that failure to use the required symbol on the Oldsmobile defroster control is inconsequential as it relates to motor vehicle safety; the words used were previously required, and are readily understood and should not cause confusion. Similarly, usage of the letter "R" rather than "Rear" should not create confusion, and may also be considered to have an inconsequential effect.

Accordingly, it is found that petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential as they relate to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vison, respectively.

(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 July 7, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18798 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-59-M

Federal Aviation Administration

Random Drawing To Determine Air Carrier Priority Sequence for Certain Temporary Airport Arrival Slots

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Public Drawing.

PURPOSE OF MEETING: The Federal Aviation Administration announces a public drawing to determine the priority sequence of requests by air carriers for temporary arrival slots at airports at which Braniff International Airways, Inc. (Braniff) had been allocated arrival slots (Braniff slots). The arrival slots in the draw include previously awarded Braniff slots which have been returned by air carriers and slots previously awarded on an emergency basis but not converted to temporary slots as a result of the draw held May 27, 1982. Carriers must be prepared to utilize slots

allocated under this draw effective August 29 or they will lose the slot and all parties are put on notice that the award of these slots may be revoked upon 24-hour notice. The public is invited to observe the drawing.

DATE: July 14, 1982, 10:00 a.m.

PLACE: FAA Auditorium, 3rd floor, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey B. Safeer, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3331.

Drawing Procedures

Interested parties are invited to observe the drawing. Slots included in the draw are those temporary Braniff slots which have been returned by air carriers and slots previously awarded on an emergency basis but not converted to temporary slots. In accordance with SFAR No. 44–4, the following procedures and conditions are applicable to the Braniff slots previously allocated to Braniff (identified in the table of Available Braniff Arrival Slots set forth below):

1. If capacity is not available for all air carrier requests submitted to the FAA Associate Administrator for Policy and International Affairs (API–1) in accordance with the July 2, 1982, telegraphic message to air carriers from API–1, priority consideration will be given in accordance with the random draw procedures set forth below:

(a) The order in which capacity will be allocated to each carrier will be determined by random draw. If additonal capacity still remains after each carrier has been allocated slots, the allocation sequence will be repeated based upon the order previously established by random draw. The allocation sequence will be repeated until all available or requested new/additional capacity is allocated at each airport.

(b) The allocation of slots by the FAA under the random draw system will reflect the carriers hourly preference at each of the airports as submitted to API–1 in accordance with the July 2, 1982, telegraphic message. First preference will be awarded where available. When not available, the next available hourly preference will be allocated.

(c) A random draw will be held for each of the airports (identified in the table set forth below) at which Braniff slots are available for temporary allocation.

(d) At an airport with 10 or fewer available slots, no carrier will receive more than 2 slots each time it comes up in the allocation sequence. At an airport with more than 11 slots no carrier will receive more than 3 slots each time it comes up in the allocation sequence. In no event will a carrier receive more slots at any airport than it requested.

(3) For the purpose of this slot allocation, O'Hare-Midway; DFW-Love; and Houston Intercontinental-Hobby shall be treated as a single airport. A slot allocated at one of these airports may be used at the other airport.

2. Slots are temporary creations of FAA emergency regulations and do not confer on any carrier a long-term right. Slots can be taken away from any carrier in accordance with the terms of any applicable regulation. The slots allocated under this drawing and slots allocated under SFAR No. 44–4 will be for a period of up to 60 days from August 29, 1982, and may be cancelled by the FAA at the end of the 60-day period or during that period upon 24-hour notice. The temporary approval of these slots may be extended at the discretion of the Administrator.

3. Carrier must be prepared to utilize all arrival slots allocated in this drawing beginning on August 29, 1982 or they will be returned to the FAA for reallocation. All emergency Braniff slots held by air carriers must be returned by August 29, 1982. All parties are put on notice that the Civil Aeronautics Board has requested an opportunity to review the need to continue certain of the emergency allocations. In addition, Muse Air Corporation (Docket No. 23188) has filed a petition for exemption with the FAA to allow them to continue to utilize emergency allocations. A summary of the petition will be published in the **Federal Register** on July 13 and July 15 with comments due on July 19, 1982. As a result of these actions, a number of slots in the lottery *may* not be allocated.

4. No new/additional flight requests for changes will be accepted by the FAA in a submittal made for this drawing.

5. "Braniff" slots are not subject to transfer or exchange, except in exchange for other "Braniff" slots. Any exchanges or transfers must comply with previously established procedures. All future schedule submissions to the FAA shall separately identify these slots as temporary "Braniff" slots as identified by the designator "DS".

6. No person shall operate an air carrier flight unless approval for the operation has been received in writing prior to the flight from API–1.

AVAILABLE BRANIFF AIRPORT ARRIVAL SLOTS

Arrival airport	Hour available in zulu time	Number of slots available
Austin, Texas (AUS)	0000	
	0200	1
		1
	1800	1
	2200	1
Amarillo, Texas (AMA)	2000	
	2300	1
		1
Chicago O'Hare, Illinois (ORD) or Chicago Midway (MDW)	0000	
	0100	1
		1
	1400	1
	1700	2
	2000	1
	2300	1
	2100	1
Corpus Christi, Texas (CRP)	0000	
	1900	1
		1
Dallas/Ft. Worth, Texas (DFW) or Dallas Love (DAL)	0000	
	0200	
	0300	2
		2
		2
	1100	1
	1300	2
	1400	2
	1500	1
	1600	2
	1700	3
	1800	2
	1900	2
	2000	2
	2100	1
	2300	2
Denver, Colorado (DEN)	0400	
	1400	
	2200	1
		1
		1
Des Moines, Iowa (DSM)	0400	1
Ft. Lauderdale, Florida (FLL)	0500	1
Harlingen, Texas (HRL)	1700	
	2100	2
		1
Houston, Intercontinental, Texas (IAH) or Houston Hobby (HOU)	0300	
	0400	
	1200	
	1500	2
		1
		1
		2
	1600	1
	2200	1
	2300	1
Kansas City, Missouri (MCI)	0000	
	0200	
	1200	2
		1
		1
	1500	1
	1800	1
	2000	1
	2100	1
	2200	1
	2300	2
LaGuardia, New York (LGA)	0200	
	1600	1
		1
	2100	1
Las Vegas (LAS)	0500	1

AVAILABLE BRANIFF AIRPORT ARRIVAL SLOTS—Continued

Arrival airport	Hour available in zulu time	Number of slots available
	2200	1
Memphis, Tennessee (MEM)	1300	
	1800	3
		1
	2100	1
Miami, Florida (MIA)	0000	1
	0400	1
	1500	1
	2000	1
Midland/Odessa, Texas (MAF)	0200	
	1500	1
		1
	2000	1
Minneapolis/St. Paul, Minnesota (MSP)		
	1700	
	1800	
	1900	2
		1
		1
	2100	1
Nashville, Tennessee (BNA)	2200	1
Newark, New Jersey (EWR)	0300	1
New Orleans, Louisiana (MSY)	0200	
	0400	
	1300	1
		1
		1
	2200	1
JF Kennedy, New York (JFK)	2200	1
Oklahoma City, Oklahoma (OKC)	0200	
	1300	1
		1
Omaha, Nebraska (OMA)	0100	
	1300	1
		1
	1400	1
	1600	1
	1900	1
	2100	1
Orlando, Florida (MCO)	1400	
	1500	1
		1
	1700	1
Philadelphia, Pennsylvania (PHL)	0200	1
Portland, Oregon (PDX)	0400	
	2300	1
		1
San Antonio, Texas (SAT)	0300	
	1300	1
		1
	1600	1
	2200	1
Seattle, Washington (SEA)	0200	
	1400	1
		1
	1600	1
	1900	1
	2300	1
Tampa, Florida (TPA)	0000	1
Tulsa, Oklahoma (TUL)	0000	
	0100	1
		1
	0200	2
	1300	2
	1400	2
	1800	1
	2100	1
	2300	1
Wichita, Kansas (ICT)	0000	
	0200	1
		1
	1400	1
	1500	1
	1700	2
	1800	1
	2000	1

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 13, 1982.

Thomas P. Messier,

Acting Associate Administrator for Policy and International Aviation.

[FR Doc. 82-19413 Filed 7-14-82; 9:43 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period July 2 through July 8, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: July 6, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512-0131.

Form Number: ATF F 4706 (5400.14).

Type of Submission: Extension.

Title: License (18 U.S.C. Chapter 40, Explosives).

Purpose: License contains a renewal application by which the explosives permittees apply for their new licenses. Form requires the explosives business to answer yes or no to 10 specific questions, which ATF uses to determine the license's eligibility to continue to engage in the explosives business.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512-0132.

Form Number: ATF F 4708 (5400.15).

Type of Submission: Revision.

Title: Permit (18 U.S.C. Chapter 40, Explosives).

Purpose: Permit contains a renewal application by which the explosives permittees apply for their new permits. Form requires the explosives business to answer yes or no to 10 specific questions, which ATF uses to determine the permittee eligibility to continue to engage in the explosives business.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 8, 1982.

Submitting Bureau: U.S. Customs Service.

OMB Number: 1515-0053.

Form Number: CF 3299.

Type of Submission: Extension.

Title: Declaration of Free Entry of Unaccompanied Articles.

Purpose: Form serves as a declaration for residents, non-residents and military personnel who are attempting to enter their personal and household goods free of duty. This form is applicable for tools of trade and professional books as well.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: FO-673.

Type of Submission: New.

Title: Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

Purpose: Form is completed by a citizen or resident of the United States and furnished to his or her employer, so the employer can exclude from income tax withholding all or part of the wages paid the citizen or resident for services performed outside the U.S..

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0393.

Form Number: Letters 109C and 109SC.

Type of Submission: Extension.

Title: Duplicate of Refund Return Requested.

Purpose: If a taxpayer contacts the IRS regarding the non-receipt of a refund and a return cannot be found, letter 109C is sent requesting the taxpayer to file another return. Any refund can then be made after the return is processed.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: FO–6881.

Type of Submission: New.

Title: HBCU Skills and Expertise Survey.

Purpose: This form will be sent to the faculty of historically Black colleges and universities (HBCU's). Those returning form will be placed on a list of possible vendors to the Internal Revenue Service. They will be considered along with other vendors wishing to contract with the IRS.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

July 9, 1982.

[FR Doc. 82–19133 Filed 7–14–82; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

[067570]

Receipt of Domestic Interested Party Petition Concerning Classification of Chinaware

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a notice of receipt of a domestic interested party petition concerning the classification of certain chinaware. A document inviting the public to comment on the petition was published in the **Federal Register** on May 13, 1982 (47 FR 20719). Comments were to have been received on or before July 12, 1982. A request has been received to extend the period for the submission of comments claiming that additional time is needed to submit thorough comments on the classification issue. Customs believes that the request has merit. Accordingly, the period of time for the submission of written comments is extended to August 13, 1982.

DATES: Comments must be received on or before August 13, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5727).

Dated: July 12, 1982.

John P. Simpson,

Director, Officer of Regulations and Rulings.

[FR Doc. 82–19156 Filed 7–14–82; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Rights Commission	1
Federal Communications Commission	2
Federal Deposit Insurance Corporation	3, 4
Federal Election Commission	5
Federal Reserve System	6, 7
Federal Trade Commission	8, 9, 10
International Trade Commission	11
Pacific Northwest Electric Power And Conservation Planning Council	12
Tennessee Valley Authority	13

1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Monday, July 12, 1982, 9:30 a.m.–12 noon, 1:30–4 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of FY 1984 Budget Package
IV. Review of the report *Greater Baltimore Commitment*
V. Review of the report *Providing Services to Minority Elderly: New Programs, Old Problems*—Part II
VI. State Advisory Committee Recharters
  A. Alabama
  B. Indiana
  C. Minnesota
  D. Mississippi
  E. Rhode Island
VII. Action re: Joint Advisory Committee report entitled *Voting Rights in Alabama, Georgia, Mississippi, and South Carolina*
VIII. California Advisory Committee report entitled *Access to Political Representations: Legislative Reapportionment in California*
IX. California Advisory Committee report entitled *Statement on the State Role in School Desegregation*
X. Nebraska Advisory Committee report entitled *Police-Community Relations in Omaha*
XI. New Jersey Advisory Committee report entitled *Bigotry and Violence in New Jersey*
XII. New York Advisory Committee report entitled *Equal Employment Opportunity in New York City: The Challenge of the 1980's*
XIII. Wisconsin Advisory Committee report entitled *Falling through the Cracks: An Assessment of Bilingual Education in Wisconsin*
XIV. Wyoming Advisory Committee report entitled *Corporate Reactions to Workplace Conditions in Wyoming*
XV. Civil Rights Developments in the Southern Region
XVI. Staff Director's Report
  A. Status of Funds
  B. Personnel Report
  C. Office Director's Report

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 254–6697.

[S–1033–82 Filed 7–13–82; 3:10 pm]

BILLING CODE 6335–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Wednesday, July 21, 1982 Following Oral Argument

The Commission will hold a closed meeting Wednesday, July 21, 1982, for the purpose of issuing instructions to the staff following scheduled oral arguments on Exceptions to Supplemental Initial Decision in the City of New York Municipal Broadcasting System and WCCO Radio, Inc. AM radio proceeding (Docket Nos. 11227, 17588, 19403) and Exceptions to Initial Decision in the WIOO, Inc. comparative renewal proceeding for station WIOO–AM, Carlisle, Pennsylvania (Docket Nos. 21506–21507).

Oral Argument in the case of City of New York Municipal Broadcasting System and WCCO Radio, Inc. AM radio proceedings (Docket Nos. 11227, 17588, 19403) is scheduled to start at 9:30 a.m.

The parties are to present oral argument as follows:

WCCO—30 minutes
WNYC—30 minutes
State of Minnesota—5 minutes
Aircraft Owners and Pilots Association and National Business Aircraft Association—10 minutes
FCC Broadcast Bureau—20 minutes

Oral Argument in the case of WIOO, Inc. comparative renewal proceeding for station WIOO–AM, Carlisle, Pennsylvania (Docket Nos. 21506–21507) is scheduled to start at 11:05 a.m.

The parties are to present oral argument as follows:

Carlisle Broadcasting Associates—20 minutes
Chief, Broadcast Bureau—20 minutes
WIOO, Inc.—20 minutes

The closed meeting will take place in Room 856 at the same address after the conclusion of the oral arguments. This meeting is closed to the public because of the disposition of adjudicatory proceedings (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission July 1, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider these matters in closed session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: July 12, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–1032–82 Filed 7–13–82; 3:01 pm]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 12, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of United American Bank in Hamilton County, Chattanooga, Tennessee, for consent to merge, under its charter and title, with City Bank and Trust, East Ridge, Tennessee, and to establish the three

offices of City Bank and Trust as branches of the resultant bank.
Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,272–NR: United States National Bank, San Diego, California
Case No. 46,001–L: Banco Economias, San German, Puerto Rico
Memorandum re; Corporation policy regarding leave-without-pay for the purpose of obtaining an advanced degree or taking a sabbatical to teach or study in a job-related area.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: July 12, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–1036–82 Filed 7–13–82; 3:17 pm]
BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 12, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, second by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,284–L: Franklin National Bank, New York, New York
Case No. 45,286–L: American City Bank & Trust Company, National Association, Milwaukee, Wisconsin
Case No. 45,287–SR: Farmers Bank of Petersburg, Petersburg, Kentucky
Case No. 45,292: The Greenwich Savings Bank, New York, New York
Case No. 45,303–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Case No. 45,306–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Case No. 46,007–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Memorandum and Resolution re: First State Bank of Northern California, San Leandro, California
Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:
Gibbs, Roper, Loots and Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 12, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–1037–82 Filed 7–13–82; 3:17 pm]
BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 20, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 22, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth 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
Advisory opinion 1982–44: Anthony S. Harrington, Democratic National Committee, and Mark Braden, Republican National Committee
Planning for the 1984 Presidential election cycle debt settlement procedures
Appropriations and budget: June 1982 Budget Execution Report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.
Marjorie W. Emmons,
Secretary of the Commission.
[S–1038–82 Filed 7–13–82; 3:16 pm]
BILLING CODE 6715–01–M

6

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29623, Wednesday, July 7, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, July 12, 1982.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

1. Draft statement to be presented to the Subcommittee on Consumer Affairs and Coinage of the House Committee on Banking, Finance and Urban Affairs, regarding H.R. 6124, a bill to extend the Credit Control Act.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 12, 1982.
James McAfee,
Associate Secretary of the Board.
[S–1031–82 Filed 7–13–82; 10:41 am]
BILLING CODE 6210–01–M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, July 21, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignment, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

James McAfee,
Associate Secretary of the Board.
[S–1039–82 Filed 7–13–82; 3:45 pm]
BILLING CODE 6210–01–M

8

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29761, July 8, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., July 12, 1982.

CHANGES IN THE AGENDA: Federal Trade Commission cancelled its open meeting scheduled for July 12, 1982. The meeting has been rescheduled for Wednesday, July 21, 1982, at 2:00 p.m.

[S-1028- 82 Filed 7-13-82; 10:06 am]

BILLING CODE 6750-01-M

9

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., **Tuesday**, July 20, 1982.

PLACE: Room 532, (open), Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in General Foods Corporation, Docket 9085.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in General Foods Corporation, Docket 9085.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1029-82 Filed 7-13-82; 10:06 am]

BILLING CODE 6750-01-M

10

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, July 28, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of the Final Promulgation of the Funeral Rule.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1030-82 Filed 7-13-82; 10:06 am]

BILLING CODE 6750-01-M

11

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29761, July 8, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, July 13, 1982.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Eckes, Stern, Calhoun, Frank, and Haggart voted by action jacket SE-82-09 to hold a portion of the discussion with respect to item No. 5 (Investigation 751-TA-6 (Birch Three-Fly Doorskins from Japan)—briefing and vote) in closed session.

Commissioners Eckes, Stern, Calhoun, Frank, and Haggart determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

The Commissioners, Their assistants, the Secretary of the Commission, and recording secretaries will attend the closed session. Certain staff members who are responsible for the agenda item will also be present.

PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1027-82 Filed 7-12-82; 4:44 pm]

BILLING CODE 7020-02-M

12

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

DATE AND TIME: July 21, 1982 at 9 a.m., July 22, 1982 at 9 a.m.

PLACE: The Portland Hilton, Pavilion Room, 921 SW Sixth Avenue, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Staff briefing on Fish and Wildlife Program.
- Status Report—Draft final report on Conservation and Resources Assessment.
- Status Report—Draft final report on the Quantification of Environmental Costs.
- Status Report—Draft final report on energy demand forecasting models.
- Council business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1038-82 Filed 7-13-82; 3:23 pm]

BILLING CODE 0000-00-M

13

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1294]

TIME AND DATE: 7 p.m. (EDT), Tuesday, July 20, 1982.

PLACE: Cleveland State Community College Auditorium, Normal Chapel Road, Cleveland, Tennessee.

STATUS: Open.

ACTION ITEMS:

A—Project Authorization

1. Project Authorization No. 3461.3—Amendment to project authorization for modification of the urea unit in Muscle Shoals, Alabama.
2. Project Authorization No. 3621—Replacement of unit process computer hardware and software at Browns Ferry Nuclear Plant.

B—Purchase Awards

1. Requisition 62—Term coal for Paradise Steam Plant.
2. Negotiation 34-192975—Indefinite quantity term contract for repair services of field services engineers, technicians, and rental of equipment for various fossil plants and power service shops.

C—Power Items

* 1. Amendment to agreement among City Service Company, Tennessee Chemical Company and TVA relating to automatic assignment and transfer of power contract from Tennessee Chemical to Cities Service.
2. Delegation of authority to execute and administer certain uranium loan agreements.

D—Personnel Items

1. Renewal of personal services contract with ITT Grinnell Corporation, Providence, Rhode Island, for services in connection with the design of onsite pipe supports for the Bellefonte Nuclear Plant, requested by the Office of Engineering Design and Construction.

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*Item approved by individual Board members. This would give formal ratification of the Board's action.

F—Unclassified

1. Modification to agreement with Office of Surface Mining covering arrangements for TVA to evaluate, on a cost reimbursable basis, certain requirements developed under the Surface Mine Control and Reclamation Act involving hydrology and sedimentology of surfaced-mined lands.
2. Proposed amendments to the terms and conditions of the voluntary retirement savings and investment plan for members of the TVA Retirement System.

CONTACT PERSON FOR MORE INFORMATION: Cravan H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: July 13, 1982.

[S-1034-82 Filed 7-13-82: 3:01 pm]

BILLING CODE 8120-01-M

federal register

Thursday
July 15, 1982

Part II

Department of Health and Human Services

Office of Human Development Services

Foster Care Maintenance Assistance and Adoption Assistance; Child Welfare Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356, 1357, and 1392

Foster Care Maintenance Assistance and Adoption Assistance; Child Welfare Services

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Final regulations.

SUMMARY: The Department is issuing this final regulation to implement the fiscal requirements under two Social Security Act titles—the new title IV–E program, Federal Payments for Foster Care and Adoption Assistance, and the title IV–B program, Child Welfare Services. These regulations implement Pub. L. 96–272, the "Adoption Assistance and Child Welfare Act of 1980." This regulation will provide the fundamental requirements for receipt and expenditure of Federal financial participation under these programs. At the same time, programmatic material is being published elsewhere in this issue as a second Notice of Proposed Rulemaking to replace the original proposal published December 31, 1980.

EFFECTIVE DATE: August 16, 1982, except §§ 1356.60 and 1357.30 which contain information collection requirements which are under review at OMB.

FOR FURTHER INFORMATION CONTACT: Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–7418.

SUPPLEMENTARY INFORMATION:

I. Background

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. In 1968 Congress transferred the program to title IV, Part B of the Act (Sec. 420–425 of the Act). Historically, title IV–B has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) was enacted on June 17, 1980. Pub. L. 96–272 establishes a new program, the title IV–E program, which will replace by October 1, 1982, the current title IV–A foster care program in the States. In addition, the law makes changes in the IV–B child welfare services program and creates links between the two programs with numerous program and fiscal incentives.

The impetus behind the passage of Pub. L. 96–272 was the belief of Congress and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from parents. Congress envisioned in the Act a system that also helps families remain together by assisting parents in carrying out their roles and responsibilities and provides alternative permanent placement for those children who cannot return to their own homes. Studies showed that thousands of children were stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States. Other findings included:

- The number of children in foster care had increased during the last decade while the length of stay in substitute care has also increased.
- Caseloads are large in the social service field and caseworkers are often unable to provide full and appropriate services to children in care and to their families.
- Many children in foster care could have been cared for in their own homes if homemaker, day care or other services had been available.
- Home based services and adoptive care are the most cost beneficial forms of care.

II. Notice of Proposed Rulemaking

Following publication of the Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 31, 1980 (45 FR 86817–86850), and the Department mailed 25,000 copies of the NPRM to individuals, organizations, and public agencies. In January, 1981 hearings were held in each of the ten HHS regions. In addition to the presentation of formal testimony, these hearings included sessions of open discussion between the public and Federal staff familiar with the law and the proposed regulations. Verbatim transcripts were taken of all testimony and discussion at the ten public regional meetings and later analysed.

During the 75-day comment period after publication of the NPRM, approximately 450 comments in addition to the testimony and discussion from the regional hearings were received. These comments varied greatly in both length and detail. Although there were differing views concerning the proposed regulation, there was broad based support for the law and its proposed reforms.

Of the comments received, approximately 20 percent dealt with the fiscal provisions. Most of these coments sought clarification of the various allotment options and a broader definition of allowable costs for FFP purposes. In addition, commenters asked that the fiscal regulations be rearranged so that the various provisions would be more easily discernable.

In response to these comments, the Department has broken up the fiscal provisions for title IV–E into several separate sections. In regard to the substantive comments, these are addressed in the section by section portion of this preamble. Overall, however, we have not made many fundamental changes to the principles articulated in the NPRM of December 31, 1980.

III. Changes Made in the Code of Federal Regulations

This final regulation removes certain provisions in 45 CFR Part 1392 which currently contains requirements for the title IV–B program and the title IV–A program of services in the Territories. The IV–A services program was abolished by the Omnibus Budget Reconciliation Act of 1981 which made the Territories eligible for funding under the Social Services Block Grant program.

In addition, this final regulation creates three new parts (1355, 1356, and 1357) in Subchapter G (The Administration for Children, Youth, and Families, Foster Care and Adoption Assistance; Child Welfare Services), which eventually will contain all requirements for the titles IV–B and IV–E programs. A second NPRM is being published concurrently that addresses other provisions of Pub. L. 96–272.

IV. Section by Section Discussion of Final Regulation

The regulation published here includes the following sections: in Part 1355, "General," § 1355.30, "Other applicable regulations"; in Part 1356, "Requirements Applicable to Title IV–E", § 1356.60, "Fiscal requirements (title IV–E)"; § 1356.65, "State allotment (title IV–E)"; and § 1356.70, "Transfer of funds from Title IV–E to Title IV–B"; and in Part 1357, "Requirements Applicable to Title IV–B", § 1357.30, "Fiscal requirements (title IV–B)".

PART 1355—GENERAL

Section 1355.30, Other applicable regulations.

Section 1355.30 contains the provisions covering Departmental policy and procedures applicable to both title IV–E and title IV–B. These sections of general applicability were originally listed in §§ 1356.80(d) and 1357.50(f) of the December 31, 1980 NPRM. They include regulations implementing Departmental policy and procedures which are generally applicable to all grants and are particularly relevant to programs with FFP in State expenditures. In addition, they are applicable to programs under the Social Security Act (the Act), including the foster care program under title IV–A (section 408 of the Act). No comments were received on the applicability of this section except to suggest that 45 CFR Part 74 be cited and that the cost allocation regulation that detailed the requirements for Social Security Act programs (45 CFR 205.150) be made applicable. We have cross-referenced that section. In addition, 45 CFR Part 95 contains other requirements applicable to these programs, for example, time limits on claims. Section 1355.30, therefore, cross-references that Part.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

In the NPRM, all the title IV–E fiscal requirements were published in § 1356.80(a), (b), and (c). The final regulation separates the fiscal requirements into sections related to expenditures under title IV–E (new § 1356.60), foster care allotment limitations (new § 1356.65) and transfer of funds from title IV–E to IV–B (new § 1356.70). The separation causes no substantive changes, but results in greater clarity in understanding and referencing the regulation.

Paragraph (a) in NPRM § 1356.80 has been modified in new § 1356.60 to make reference only to the provisions of the Act. In the first NPRM, the provisions of the proposed rule on foster care and adoption assistance were cross-referenced as requirements. In the second NPRM, also being published today, the proposed rule in its modified form are again cross-referenced. When the second NPRM is made final, paragraph (a) will be amended to include the regulatory as well as statutory references.

There were a number of comments on § 1356.80(b) of the NPRM that were related to federal matching funds for training. Most of the commenters requested that States be mandated to provide training to staff of voluntary, non-profit agencies, to require that staff have professional social work degrees and to set standards in the regulations.

Under title IV–E, the Department provides funds to State agencies under a grant. The State then determines which persons shall be provided training and seeks FFP in allowable expenditures. Therefore, no change has been made in this provision.

However, upon review, we have determined that the Act in § 474(a)(3)(A) limits reimbursement of expenditures at 75 percent to "training * * * of personnel employed or preparing for employment by the State agency or the local agency administering the State plan in the political subdivision." Therefore, training for foster and adoptive parents and staff of licensed or approved child care institutions is reimbursable as an administrative cost at a 50 percent rate under paragraph (c) of § 1356.60, but not as training reimbursable under paragraph (b) of that section.

The Department received many comments concerning paragraph (c) of § 1356.80 of the NPRM. Nearly all of the comments disagreed with the proposed prohibition on reimbursement of administrative costs for social services provided to the child, family or foster family which include counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions (now in sub-paragraph (3) of § 1356.60(c)). Commenters recommended that these costs be reimbursable, and suggested that reimbursement would encourage development and use of these services and foster the achievement of the goals of title I of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980. Also, commenters praised the list of allowable costs (examples) under sub-paragraph (2) of § 1356.60(c).

We agree that treatment—oriented services, such as helping families be reunited or finding new permanent homes for children, are vital to the goals of Pub. L. 96–272. However, concurrently with the enactment of title IV–E, Congress enacted a revised title IV–B (Child Welfare Services Program) which provides for the delivery of these social services. In addition, title XX of the Act, now the Social Services Block Grant, provides funds to States for services. Because other sources of Federal funds are available for the provision of these services, the Department has prohibited reimbursement from title IV–E funds for treatment-oriented services as inconsistent with the statutory concept of maintenance expenditures. Funds for those purposes are the major focus of the services programs. Therefore, the final regulation continues the NPRM requirement by prohibiting FFP under title IV–E for treatment-oriented services.

We received a few comments suggesting clarification of the cost allocation provisions. We have done so by our reference to 45 CFR 205.150 in § 1355.30 and have eliminated a duplicative reference in this final section.

A few commenters asked that we make clear to which program costs might be charged. They referred to both the introductory portion of § 1356.80(c), which said that costs might be claimed under this or other programs, and the examples of allowable costs listed in sub-paragraph (c)(1) of the first NPRM. Therefore, sub-paragraph (c)(1) of § 1356.60 of this final rule lists administrative costs deemed allowable under title IV–E and not reimbursable under any other Federal program. (States may support them by using State and local funds.) Sub-paragraph (c)(2) lists the remaining examples of allowable administrative costs. Together, they list the same activities previously listed as allowable under sub-paragraph (c)(1) in the NPRM. The NPRM also contained a statement of other programs to which costs might be charged. That statement has been deleted. As some commenters correctly pointed out, the State's approved cost allocation plan is the proper document under which multiprogram costs are distributed to particular programs.

The provisions of the NPRM related to State foster care allotments under title IV–E (§ 1356.80(e)(1–5)), have been made a separate section in the final regulation (§ 1356.65). There were few comments on these provisions.

Section 1356.80(e)(1)(iii)(E)(*2*) stated that disputes between the Secretary and the State over the amount of State claims from the base year used for computing allotments (Fiscal Year 1978) be considered final after a final decision has been made by the Department. A few commenters suggested that the disputes be considered final only after judicial proceedings, if any, are completed. The Act and legislative history simply require that the base be recalculated after the dispute is resolved.

This provision has been restated (in § 1356.65(a)(3)(v)(A)(*4*)) as it was in the NPRM. The dispute will be considered final for purposes of recalculation of a State's allotment after it is settled by the Department. This provides States with ample opportunity to have the dispute reviewed and reconsidered. If the

recalculation awaited final court action, disputes might not be finally resolved for several years.

Section 1356.70 of the regulation contains the provisions related to possible transfer of funds from title IV–E to title IV–B when the funds needed for foster care are less than the State's foster care allotment. There were only two significant sets of comments. Several persons pointed out that the provisions of the NPRM did not state the option (in § 474(c)(2) of the Act) that a State might transfer funds even if the Congress has not appropriated the "trigger amount" for title IV–B that make the allotment limitations mandatory. Paragraph (3) of § 1356.70(a) now provides that a State may make the transfer under this condition.

The other comments on this set of provisions relate to the date by which a State must apply for transfer of funds and the requirements for jointly planning the use of funds by the State and the Administration for Children, Youth and Families (ACYF). The proposed rules required application by no later than the end of the third quarter of the fiscal year in which they will be obligated. Commenters wanted more time to calculate expenditures for the fiscal year. Commenters also felt that there would not be enough time to plan jointly the use of these transferred funds.

The date for submission of the transfer request has multiple purposes: it must leave sufficient time for joint Federal-State planning for the use of the funds transferred from title IV–E to title IV–B; it should enable a State to have made a significant proportion of its expenditures for the year so that it may make a reasonable estimate of funds needed for foster care for the entire year; and it must leave time for the State to obligate the transferred funds under title IV–B requirements.

To balance these needs, we have modified the provision. We have moved the date to August 15th. In addition, the regulation gives the Commissioner (ACYF) the authority to change the date if special circumstances exist. Examples of special circumstances might include a delay in the Federal appropriations process that would make the amount of funds available to States uncertain or a judicial decision that strongly affects the use of the funds. To be fair and equitable to States, the Department will generally apply this authority uniformly to all States, rather than on a State-by-State basis, unless the judicial decision is applicable only to the circumstances in a given State.

Section 1357.30, Fiscal Requirements (Title IV–B)

This final regulation also includes the fiscal requirements for title IV–B. These requirements were published in the December 31, 1980 NPRM under section 1357.50. They are published here as § 1357.30.

There were few comments on this section and there have been only a few minor changes. First, as discussed above, we have moved the cross-references to general regulations from § 1357.50(f) to section 1355.30.

Second, we have made some requirements briefer, without changing their substance. Specifically, the provisions related to the allotments to States (§ 1357.30(b) of the final regulation) and the payments to States (§ 1357.30(c)) cross reference the relevant sections of the Act (section 421 and section 423 (a) and (b), respectively) rather than restating the requirements from the Act.

Third, in response to comments, we have clarified some of the other sections. New paragraph (a) of § 1357.30 makes clear that all of the requirements of that section apply to funds transferred to title IV–B from title IV–E or title IV–A foster care. In effect, the transferred funds assume the character of title IV–B funds once they are awarded under title IV–B. Paragraph (d) of § 1357.30 states that Part 74 applies to non-compliance by a State under title IV–B. Paragraph (e) indicates which provisions of the Act and regulation apply to Federal financial participation. Paragraph (g) further clarifies the process for reallotment of funds, including reallotment of funds subject to the conditions under section 427 of the Act. Paragraphs (h) and (i) are restatements of regulatory provisions formerly located in 45 CFR 1392.77 and 1392.78 and establish the time period during which funds must be obligated and expended.

Commenters to the NPRM raised a few questions related to these provisions. First, several comments recommended that we expand the definition of allowable costs to include such items as accreditation of facilities, runaway youth up to age 21 (limited to age 18 in the NPRM), and various voluntary or private sector costs. In paragraph (e) of § 1357.30, we have listed the provisions of the Act (particularly section 425, the definition) which govern the costs which may be claimed under title IV–B. Thus, we have replaced a long list of twenty allowable costs with the broad definition under the Act.

Commenters were also concerned with the maintenance of effort provision of the NPRM (§ 1357.50(h)). The NPRM proposed that maintenance of effort include State and local appropriated funds for public child welfare services, including the State match for child welfare expenditures made under the title XX plan and State child welfare expenditures not matching Federal funds. While a few commenters supported the proposed provision, most commenters, especially the States, recommended a narrower interpretation of the statutory provision. They recommended that maintenance of effort be more narrowly defined to include only State and local funds matching title IV–B funds (in FY 1979).

In the House bill, section 423(d) included all Federal, State and local expenditures under titles IV–B and XX of the Act. In the Act, as enacted, the provision excluded Federal title XX expenditures from the maintenance of effort level of expenditures. We have decided that the State should not and does not have to include expenditures other than those State expenditures from State and local appropriated funds made under the title IV–B program for FY 1979 in calculating the level of child welfare expenditures that must be maintained.

V. Impact Analysis

a. *Executive Order 12291.* The Secretary has determined, in accordance with Executive Order 12291, that this final regulation does not constitute a major rule because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or process for consumers, any industries, any governmental agency or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets. To the contrary, this final regulation will provide latitude to the States in implementing the provisions of the law and impose no significant burdens on States.

b. *Regulatory Flexibility Act.* Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, or small governmental jurisdictions. However, this requirement does not apply to final

rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

c. *Recordkeeping and Reporting Requirements.* Under the Paperwork Reduction Act of 1980, the Department is required to submit to the Office of Management and Budget for approval any information collection or reporting requirements. This final regulation contains the following requirements:

(a) § 1356.60 Fiscal Requirements (title IV–E).

(b) § 1357.30 Fiscal Requirements (title IV–B).

Use of fiscal forms in these sections will be required. They are:

- Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (IV–E–1), OMB No. 0980–0130, expires September 30, 1982;
- Quarterly Statement of Expenditures, for Foster Care and Adoption Assistance (IV–E–2), OMB No. 0980–0131, expires September 30, 1982;
- Annual Budget Request for Title IV–B Funds, OMB No. 0989–0047, expires September 30, 1982.

Section 427(a)(2)(A) of the Act (Statewide Information System) and the Annual Summary of Child Welfare Services (Title IV–B) are also subject to the approval of OMB under the Paperwork Reduction Act of 1980. The Department will submit a clearance request for section 427(a)(2)(A) (Statewide Information System) to OMB. In addition, the Annual Summary of Child Welfare Services will *not* be required until OMB has approved its use.

VI. List of Subjects in 45 CFR

45 CFR Part 1355

Information (Confidentiality).

45 CFR Part 1356

Adoption assistance, Administrative costs, Administrative practice and procedure, Administrative reviews, Allotments to States, Case plan, Case review system, Contracts (Agreements), Definitions, Dispositional hearings, Fair hearings, Federal financial participation, Foster care allotments, Foster care maintenance payments, Medicaid, Preplacement preventive services, Reunification services, Social services, Statewide information system, State plans, Title IV–E, Training, Voluntary placements.

45 CFR Part 1357

Child welfare services, Federal financial participation, Foster care, Grants-in-Aid program, Indians, Inventory, Preplacement preventive services, Reunification services, State plan, Training.

45 CFR Part 1392

Aid to Families with Dependent Children, Child welfare, Grant programs–social programs, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands, Volunteers.

(Catalog of Federal Domestic Assistance Program Nos. 13.658, Foster Care Maintenance, 13.659, Adoption Assistance and 13.645, Child Welfare Services-State Grants)

Dated: April 22, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Services.

Approved: May 17, 1982.

Richard S. Schweiker,

Secretary for Health and Human Services.

For the reasons set forth in the Preamble, 45 CFR Chapter XIII is amended as follows:

1. New Parts 1355, 1356 and 1357 are added to read as follows:

PART 1355—GENERAL

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1355.30 Other applicable regulations.

The procedures and requirements in the following sections of 45 CFR shall apply to all programs funded under the provisions of these regulations and titles IV–E and IV–B of the Social Security Act (the Act)—

(a) Part 16, Department Grant Appeals Process;

(b) Part 74, Administration of Grants, except that Subpart I, Financial Reporting Requirements, shall not apply. The Commissioner for Children, Youth and Families (the Commissioner), shall provide forms and instructions for financial reporting.

(c) Part 95, General Administration—Grant Programs (Public Assistance and Medical Assistance).

(d) Section 201.5, Grants (except that ACYF shall supply appropriate forms and instructions).

(e) Section 201.6, Withholding/Reduction of FFP.

(f) Section 201.7, Judicial review.

(g) Section 201.15, Deferral.

(h) Section 201.66, Repayment of Federal funds in installments.

(i) Section 204.1, Submittal of State plans for Governor's review.

(j) Section 205.5, Plan amendments.

(k) Section 205.10, Hearings.

(l) Section 205.50, Safeguarding information.

(m) Section 205.100, Single State agency.

(n) Section 205.101, Organization for administration.

(o) Section 205.150, Cost allocation plans.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

Sec.

1356.60 Fiscal requirements (title IV–E).
1356.65 State foster care allotment (title IV–E).
1356.70 Transfer of funds from title IV–E to title IV–B.

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1356.60 Fiscal requirements (title IV–E).

(a) *Federal matching funds for foster care maintenance and adoption assistance.* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV–E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in sections 475(4) of the Act, made in accordance with section 472 of the Act (including, for purposes of determining eligibility of the child under sections 402 and 406(a) or 407 of the Act, the governing regulations) and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with section 473 of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act, Definitions, and pertinent regulations as promulgated by the Secretary, or his designee.

(b) *Federal matching funds for State and local training for foster care and adoption assistance under title IV–E.* (1) Federal financial participation is available at the rate of seventy-five percent (75%) in the costs of training personnel employed or preparing for employment by the State or local agency administering the plan.

(2) All training activities and costs funded under title IV–E shall be included in the State agency's training plan for title IV–B.

(3) Short and long term training at educational institutions and in-service training may be provided in accordance

with the provisions of §§ 235.63 through 235.66(a) of this title.

(c) *Federal matching funds for other State and local administrative expenditures for foster care and adoption assistance under title IV–E.* Federal financial participation is available at the rate of fifty percent (50%) for administrative expenditures necessary for the proper and efficient administration of the title IV–E State plan. The State's cost allocation plan shall identify which costs are allocated and claimed under this program.

(1) The determination and redetermination of eligibility, fair hearings and appeals, rate setting and other costs directly related only to the administration of the foster care program under this Part are deemed allowable administrative costs under this paragraph. They may not be claimed under any other section or Federal program.

(2) The following are examples of allowable administrative costs necessary for the administration of the foster care program:

(i) Referral to services;

(ii) Preparation for and participation in judicial determinations;

(iii) Placement of the child;

(iv) Development of the case plan;

(v) Case reviews;

(vi) Case management and supervision;

(vii) Recruitment and licensing of foster homes and institutions;

(viii) Rate setting; and

(ix) A proportionate share of related agency overhead.

(3) Allowable administrative costs do not include the costs of social services provided to the child, the child's family or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions.

(4) Funds expended with respect to nonrecurring costs of adoption proceedings for children on behalf of whom adoption assistance is provided under the State plan may not be reimbursed as administrative costs under IV–E.

(5) Foster and adoptive parents, and staff of licensed or approved child care insititutions providing foster care under this Part shall be eligible for short-term training at the initiation of or during their provision of care. FFP directly related to such training shall be limited to travel and per diem.

§ 1356.65 State foster care allotment (title IV–E).

The State allotment for foster care under this Part of Fiscal Years 1981 through 1984 shall be the greater amount as determined under paragraph (a) or (b) of this section; or, at the option of the State, under paragraph (c) of this section. This determination is made without regard to the allotment for any prior fiscal year except as specified under paragraph (c)(3) of this section. The State need not select the same option each year. The allotment is a single dollar amount, limiting Federal funds reimbursed to a State for foster care payments and related administrative expenditures (including training).

(a) The first method provides for the calculation of the base amount and adjustments for each fiscal year as follows:

(1) For purposes of determining allotments for later years, for Fiscal Year 1980, the State's allotment is the base amount increased by 21.2%.

(2) For each of the Fiscal Years 1981 through 1984, the allotment for the State shall be an amount equal to the State's allotment for the preceding fiscal year, increased or decreased by twice the change (but not more than 10%) in the percentage of the Consumer Price Index, prepared by the U.S. Department of Labor, and used to determine the cost of living adjustments for Social Security benefits under section 215(i) of the Act, Cost of Living Increases in Benefits. For this calculation, second quarter data of the preceding fiscal year shall be compared to those for the second quarter of the second preceding fiscal year. The arithmetic mean for the three months of the second quarter shall be used to establish the Consumer Price Index for this quarter.

(3) The base amount in paragraph (a)(1) is calculated using the following formula: Maintenance payments plus attributable administrative expenditures plus attributable training expenditures. For the purposes of this formula:

(i) *Maintenance payments* are determined by:

(A) The amount of Federal funds that have been or may be paid on behalf of allowable claims for foster care maintenance payments for FY 1978 submitted to DHHS in accordance with Sectioin 306 of Pub. L. 96–272 (94 Stat. 530); and

(B) The amount of Federal funds that would have been paid for allowable claims on behalf of children meeting all requirements of Section 408 of the Act for FY 1978 except that the State, on a Statewide basis, did not make such payments under State law, regulation or policy solely because the foster care was provided by a relative(s) of a child.

(ii) *Attributable administrative expenditures* means State expenditures for Fiscal Year 1978 attributable to the performance of activities required under Section 408 of the Act for children for whom maintenance payments are included under paragraphs (a)(3)(i) (A) and (B) of this section, regardless of whether payment for the administrative expenditures might have been made under Section 403 of the Act. Expenditures which may be included are limited to costs of conducting for those children: eligibility determination and redetermination, quality control, fair hearings and appeals, agency activities in judicial determination, placement, case review, case management and supervision, rate-setting, recruitment of foster care homes and institutions, licensing and a proportionate share of general related agency overhead. The amount of these expenditures is determined by one of the following three methods:

(A) By actual administrative expenditures attributable to the provision of foster care maintenance payments for Fiscal Year 1978, multiplied by 50%, if a State submits a report of these expenditures which is satisfactory to the Secretary and which is supported by documentation;

(B) By an amount determined by the following formula:

(*1*) The State's total AFDC administrative expenditures for Fiscal Year 1978 divided by the State's average monthly number of AFDC cases in fiscal year 1978;

(*2*) The result of step (*1*) multiplied by 50%;

(*3*) The product of step (*2*) multiplied by the average monthly number of AFDC-Foster Care cases in Fiscal Year 1978; or

(*C*) By an amount determined as follows:

(*1*) The State's administrative expenditures (as stated in § 1356.60(c)) of this Part attributable to foster care maintenance payments made under title IV–E or IV–A during a period of three or more calendar months of Fiscal Year 1981 divided by the number of months in the period;

(*2*) The result of (*1*) reduced to the comparable Fiscal Year 1978 amount by use of the Implicit Price Deflator for State and Local Government Purchases (issued by the U.S. Department of Commerce);

(*3*) The result of (*2*) multiplied by the ratio of the average monthly number of AFDC-Foster Care cases in Fiscal Year 1978 compared to the comparable number of cases for the period used in (*1*);

(*4*) The product in (*3*) multiplied by 12 (for an annual amount); and

(5) The product in (4) multiplied by 50 percent (the FFP rate in administrative expenditures).

(6) The data in paragraph (1) need not have been paid or claimed under Section 403 or 474 of the Act. They must have been reported to the Regional Program Director, ACYF no later than 30 days after the end of Fiscal Year 1981 in accordance with instructions from the Commissioner.

(iii) *Attributable Training Expenditures* are determined by:

(A) Actual training expenditures attributable to the provision of foster care maintenance payments for FY 1978, multiplied by 75%, if a State submits a report of these expenditures which is satisfactory to the Secretary and supported by documentation; or

(B) An amount determined by the following formula:

(1) The State's total AFDC training expenditurs for FY 1978 divided by the State's average monthly number of AFDC cases in FY 1978;

(2) The result of (1) multiplied by 75%;

(3) The product of (2) multiplied by the average monthly number of AFDC-Foster Care cases in FY 1978.

(iv) *Sources of data and documentation.* (A) All claims must be submitted on forms provided by the Secretary and in accordance with the constraints of Section 306 of Pub. L. 96-272 (94 Stat. 530).

(B) All reports to establish the claims which would have been allowable under paragraph

(a) (3)(i)(B), (3)(ii)(A) or

(a) (3)(iii)(A) of this section must have been submitted on forms provided by the secretary within forty-five (45) days after the end of the second quarter of FY 1981.

(v) *Disputed claims or reports.* (A) Only the following claims or reports in which DHHS and a State have a dispute will be included in the base amount:

(1) For maintenance payments, the claims submitted to DHHS in accordance with section 306 of Pub. L. 96-272, and the reports submitted to DHHS on expeditures and reported numbers of children under paragraph (3)(i)(B) of this section;

(2) For attributable administrative expenditures, the dollar amount reported to DHHS in accordance with paragraph (a)(3)(ii)(A);

(3) For attributable training expenditures, the dollar amount reported to DHHS in accordance with paragraph (a)(3)(iii)(A);

(4) Any claims or reported data in which a State and the Secretary have a dispute will be included in the base amount until the beginning of the fiscal year after the fiscal year in which the dispute is finally resolved by the Department. Allotments for fiscal years after solution of the dispute will be computed using the revised base amount.

(b) Under the second method, the allotment for the State equals an amount which bears the same ratio to $100 million as the under age 18 population of that State bears to the under age 18 population of the fifty States and the District of Columbia.

(c) Eligible States may select that their allotment be calculated by a third method.

(1) A State may *not* exercise this option unless: (i) In FY 1978, the percentage of the average monthly number of children in the State under age 18 who received AFDC-foster care maintenance payments under title IV-A of the Act as a proportion of all children under age 18 in the State was less than the corresponding national percentage for the 50 States and the District of Columbia;

(ii) Beginning in FY 1982, the percentage of the State's average monthly number of children under age 18 who received foster care maintenance payments during the Fiscal Year under title IV-A or IV-E of the Act compared to the State's total number of children under age 18 during the Fiscal Year has not exceeded the corresponding national percentage of the 50 States and the District of Columbia during Fiscal Year 1978.

(2) Under this method, the allotment is calculated as follows: (i) The base amount is determined by applying the provisions of paragraph (a)(3) of this section.

(ii) If for any of the fiscal years 1981-1984, the average monthly number of children receiving foster care maintenance payments in the State under title IV-A or IV-E of the Act exceeds the average monthly number of such children in the State for FY 1978, the base amount for that fiscal year shall be further increased by the percentage of increase in the State's foster care maintenance payment average monthly caseload for that Fiscal Year under title IV-A or IV-E of the Act over its comparable caseload under title IV-A for Fiscal Year 1978. This percentage increase may not exceed: for FY 1981—33.1%; FY 1982—46.4%; FY 1983—61.1%; and FY 1984—77.2%.

(iii) Increases or decreases in the base amount for each fiscal year are made in accordance with paragraphs (a)(1) and (2) of this section.

(3) If the State no longer meets the conditions for exercising the State option provided in paragraph (c)(1) of this section, but selected this option for the determination of its allotment for the preceding fiscal year, the allotment for the preceding fiscal year shall be used for the purpose of determining allotments for subsequent fiscal years through Fiscal Year 1984.

(4) For the purpose of establishing the average monthly number of children receiving foster care maintenance payments under title IV-A of the Act in Fiscal Year 1978 under this section, children who except for their placement with related persons would have received foster care under Section 408 of the Act shall be included even though they did not receive foster care maintenance payments.

(5) for purposes of this allotment, in the event that there is a dispute between a State and the Secretary as to the number of such children (with respect to whom foster care maintenance payments were not made) for any fiscal year, then until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved by DHHS, determinations under the foregoing subparagraphs shall be made on the basis of the number of such children claimed by the State.

(6) Interim allotments for each fiscal year shall be issued by the Secretary, or his designee, for States eligible under this option (paragraph (c)(1)) not later than six months after the beginning of the fiscal year. The interim allotments shall be based on the most satisfactory data then available. The final allotment shall be issued not later than nine months after the end of that fiscal year and shall be based on the most recent satisfactory data then available.

(d) The limitation on available funds imposed by the allotment will be effective only if:

(1) The appropriation under Section 420 of the Act for that fiscal year equals or exceeds the following amounts: for Fiscal Year 1981—$163,550,000; 1982—$220,000,000; and for Fiscal Years 1983 and 1984—$266,000,000; and

(2) With respect to each of the Fiscal Years 1982-1984, the appropriation for title IV-B under Section 420 of the Act has been made before the beginning of the Fiscal Year to which the limitation applies.

(e) The State shall select the method for determining its allotment no later than forty-five (45) days after the end of the second quarter of the applicable (Federal) fiscal year.

§ 1356.70 Transfer of funds from title IV-E to title IV-B.

(a)(1) Funds available to the State within the foster care allotment for title IV-E which the State does not for foster

care purposes under title IV–E may be transferred to title IV–B and claimed by the State as reimbursement under that program only if the State has selected an allotment described under paragraph (a) or (b) of § 1356.65.

(2) If the limitation imposed by the allotment calculated under paragraph (a) or (b) of § 1356.65 is in effect, the amount of funds that a State may transfer to and claim under title IV–B is limited by the amount of funds not needed for foster care under title IV–E.

(3) If the limitation imposed by the allotment calculated under paragraphs (a) or (b) of § 1356.65 is *not* in effect, the amount of funds that a State may transfer to and claim under title IV–B is further limited to the total amount of funds which, when added to the funds received under sections 420 and 424 of the Act for that Fiscal Year, would not exceed the State's share of the amounts listed in paragraph (d)(1) of § 1356.65.

(b) If the amount transferred to title IV–B, when added to the IV–B allotment, exceeds the amount which would be allotted to the State under title IV–B if the appropriation for title IV–B equaled $141 million, the State may transfer funds under paragraph (a) of this section only if it has met the requirements of section 427(a) of the Act.

(c) If the appropriation for each of any two consecutive fiscal years under Section 420 of the Act equalled $266,000,000, the State may transfer funds under paragraph (a) of this section only if it has met the requirements of section 427(b) of the Act.

(d) If the total reimbursement to the State for expenditures under title IV–B (including transferred funds) equalled the State's share of $266,000,000 for each of two fiscal years in which the limitation under this section did *not* apply, the State may transfer funds under paragraph (a) of this section in any succeeding year only if it has met the requirements of section 427(b) of the Act.

(e) *Amount that may be transferred from title IV–E to title IV–B.* (1) The amount of funds that a State may transfer from title IV–E to title IV–B is:

(i) For any year in which the limitation specified under § 1356.65 is in effect, the amount by which the State's title IV–E foster care allotment exceeds the FFP in State expenditures needed for foster care maintenance payments and administrative expenditures, including training expenditures; and

(ii) For any year in which the limitations specified in § 1356.65 is *not* in effect, the amount determined under subparagraph (i), above, is further limited to the amount which when added to the amount the State receives under Section 420 of the Act (including any reallotted funds) does not exceed the amount of the State's allotment under Section 420 of the Act which would have been in effect if the amount described under Section 474(b)(2)(A) of the Act had been appropriated.

(2) Transferred funds must be used to reimburse expenditures under title IV–B (as defined under the regulations applicable to that program) for the same fiscal year for which they were originally available.

(i) The State shall apply for approval of transfer of these funds to the Regional ACYF office no later than August 15th, unless the Commissioner shall set a different date for all States because of special circumstances.

(ii) The procedures for application for funds and plans under title IV–B, including joint planning, shall apply to these funds.

(3) A State shall operate its foster care program under its State plan continuously throughout the time the plan is in effect, regardless of whether or not it has transferred funds under this section.

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV-B

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1357.30 Fiscal requirements (title IV-B).

(a) The requirements of this section shall apply to all funds allotted or reallotted to States under title IV–B and to all funds not needed for foster care which are transferred from title IV–A or title IV–E and awarded to States under title IV–B.

(b) Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) Payments to States shall be made in accordance with section 423 of the Act.

(d) In the event of a State's failure to comply with the terms of the grant under title IV–B and with the regulations listed in § 1355.30, the provisions of §§ 74.113 through 74.115 of this title shall apply.

(e) Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 and, when applicable, section 427 of the Act, and in accordance with the grants administration requirements of 45 CFR Part 74 except that—(1) Non-public third party in-kind contributions may not be used to meet the requirements of the non-Federal share of the costs of programs funded under this Part.

(2) The total of Federal funds used for the following purposes under title IV–B may not exceed an amount equal to the FY 1979 Federal payment under title IV–B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV–B allotment may include foster care maintenance expenditures in any amount.

(4) Funds awarded under title IV–B may not be used for the purchase, construction, or other capital costs for child care facilities.

(f) *Maintenance of Effort.* (1) A State may not receive an amount of Federal funds under title IV–B in excess of the Federal payment made in FY 1979 under title IV–B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV–B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV–B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV–B greater than the amount of title IV–B funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (f)(1) and (2) of this section for the fiscal year for which application for funds is being made.

Records verifying the required certification shall be maintained by the State and made available to the

Secretary as necessary to confirm compliance with this section.

(g) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV–B allotment will not be required for carrying out that State's plan, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does *not* certify by a date fixed by the Commissioner that it will be able to obligate during the fiscal year all of the funds available to it under its title IV–B allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when he determines that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) The State will be able to obligate the additional funds during the current fiscal year.

(4) To be eligible to receive funds under the reallotment provisions of this paragraph, the State shall submit an application by the date and in the form prescribed by the Commissioner.

(h) *Fiscal year of expenditures.* An expenditure under an annual budget will be charged to the FY in which the obligation was incurred (the year the Federal funds were awarded). Such budgets and expenditure reports as are required by the Commissioner will be prepared on this basis. For the purposes of this section and this paragraph, "obligation" means only bonafide encumberances or commitments which are supported by contracts or other evidence of liability consistent with State purchasing procedures.

(i) *Liquidation of obligations.* All obligations of the State agency incurred in carrying out the annual budget must be liquidated within 2 years or the period within which claims must be filed under title IV–B, whichever is earlier.

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV, PARTS A AND B OF THE SOCIAL SECURITY ACT

2. Sections of 45 CFR Part 1392—Service Programs for Families and Children; Title IV, Parts A and B of the Social Security Act are amended as follows:

§§ 1392.60 through 1392.66 [Removed]

(a) In Part 1392, Subpart C, §§ 1392.60 through 1392.66 are removed.

§ 1392.71 [Amended] and §§ 1392.72 through 1392.84 [Removed]

(b) In Part 1392, Subpart D, §§ 1392.71(c) and 1392.72 through 1392.84 are removed.

[FR Doc. 82–19130 Filed 7–14–82; 8:45 am]
BILLING CODE 4130–01–M

federal register

Thursday
July 15, 1982

Part III

Department of Health and Human Services

Office of Human Development Services

Foster Care Maintenance Assistance, Adoption Assistance, and Child Welfare Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356, 1357, and 1392

Foster Care Maintenance Assistance, Adoption Assistance, and Child Welfare Services

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Second Notice of Proposed Rulemaking

SUMMARY: The Department is issuing this notice of proposed rulemaking to govern the new title IV-E program, Federal Payments for Foster Care and Adoption Assistance, and to govern the title IV-B program, Child Welfare Services, of the Social Security Act, contained in Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980. This proposed regulation would provide the basic programmatic requirements under titles IV-E and IV-B. The earlier version of this notice of proposed rulemaking, published on December 31, 1980, is herewith withdrawn. The Department is also concurrently publishing elsewhere in this issue the fiscal requirements for titles IV-E and IV-B as a final regulation.

DATES: Comments must be received on or before September 13, 1982.

ADDRESS: Send written comments to Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–7418.

SUPPLEMENTARY INFORMATION:

I. Background

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. In 1968 Congress transferred the program to title IV, Part B of the Act (Sec. 420–425 of the Act). Historically, title IV-B has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) was enacted on June 17, 1980. In addition to amending title IV-B, Pub. L. 96–272 establishes a new program, the title IV-E program, Federal Payments for Foster Care and Adoption Assistance, which will replace by October 1, 1982, the current title IV-A foster care program in the States. The law creates links between the two programs with numerous program and fiscal incentives.

The impetus behind the passage of Pub. L. 96–272 was the belief of Congress and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from parents. Congress envisioned in the Act a system that also helps families remain together by assisting parents in carrying out their roles and responsibilities and provides alternative permanent placement for those children who cannot return to their own homes. Studies showed that thousands of children were stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States. Other findings included:

- The number of children in foster care had increased during the last decade while the length of stay in substitute care has also increased.
- Caseloads are large in the social service field and case workers are often unable to provide full and appropriate services to children in care and to their families.
- Many children in foster care could have been cared for in their own homes if homemaker, day care or other services had been available.
- Home based services and adoptive care are the most cost beneficial forms of care.

II. Content and Purpose of Pub. L. 96–272

The passage and enactment into law of Pub. L. 96–272 demonstrates a Congressional concern and commitment to provide financial assistance and technical consultation to States to make changes in their child welfare services systems. To reduce the number of children entering foster care, the law places emphasis on the use of preplacement preventive services to help solve or alleviate the family problems that would otherwise result in the child's removal from the home. To reduce the number of children already in the foster care system, the law requires States to undertake several initiatives.

A State must enact a law by October 1, 1982, establishing annual goals for reducing the number of children funded under the title IV–E program who remain in foster care over 24 months. If a State is to receive Federal financial participation (FFP) in foster care maintenance payments under title IV–E after October 1, 1983, it must provide services to facilitate the reunification of foster children with their families. To ensure that children do not remain adrift in the foster care system, a State must implement case plan and case review procedures that periodically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and the family. To encourage family reunification, a State must attempt to place a child in close proximity to the family and in the least restrictive (most family like) setting. Finally, for those children who cannot be reunited with their families and who have "special needs," financial assistance will be available to families adopting these children. In short, the new law rests on three pillars:

Prevention of unnecessary separation of the child from the parents;

Improved quality of care and services to children and their families; and

Permanency through reunification with parents or through adoption or other permanency planning.

Title IV–E Program

The law creates a new program under title IV–E of the Social Security Act. The IV–E program closely parallels the foster care program currently provided under title IV–A, the Aid to Families with Dependent Children program. In addition, the title IV–E program also makes available Federal financial participation (FFP) in adoption assistance payments for children with "special needs." Federal matching funds for adoption assistance payments are not available under title IV–A. It also provides, for the first time, Federal matching funds for children voluntarily placed in foster care.

Beginning October 1, 1982, the title IV–E program will replace the IV–A foster care program. Until September 30, 1982 a State may operate its foster care programs under either title IV–E or IV–A. If a State chooses to continue under the title IV–A program, the State must meet the title IV–A requirements as amended by Pub. L. 96–272. Although the Federal agency responsibility for the administration of the title IV–A foster care program is now with the Office of Human Development Services, the essential application and financial management procedures for title IV–A will not be altered.

For purposes of briefly summarizing the title IV–E provisions of Pub. L. 96–272, the law may be divided into the

following general areas: State Plan Requirements; Foster Care Maintenance Payment Program; Children Voluntarily Placed in Foster Care; and the Adoption Assistance Program.

State Plan Requirements: The State plan requirements contained in section 471 of the Act include many requirements applicable to AFDC State plans under title IV–A such as a system of fair hearings and provisions to restrict the use or disclosure of information concerning individuals assisted under the State plan.

Sections 471(a)(16) and 475 of the Act strengthen the requirements for case plans and case reviews for children in foster care. Effective October 1, 1983, State plans must provide that reasonable efforts are made to prevent removal of the child from his or her home prior to foster care placement and that reasonable efforts are made to enable the child to return home (sec. 471(a)(15) of the Act). Also effective October 1, 1983, the agency must show in the child's case plan that reasonable efforts had been made to prevent removal of the child from his home in order for the child to receive title IV–E assistance payments (sec. 472(a)(1) of the Act).

Foster Care Maintenance Payments Program: Title IV–E authorizes FFP in foster care maintenance for all children currently eligible for AFDC–FC funds under title IV–A. Under title IV–A, Federal AFDC–FC payments are funds available for maintenance payments for a child otherwise eligible for AFDC payments, who is placed in a foster home or nonprofit private child care institution. Eligibility for FFP under title IV–E also includes children in public child care institutions which accommodate no more than 25 children. When this law was written, it included the requirement that children receiving foster care maintenance payments under title IV–E are deemed, for purposes of titles XIX and XX, to be dependent children as defined in title IV–A. This meant that such children would be eligible for Medicaid (title XIX) and social services under the title XX program then in effect (sec. 472(d) of the Act). Title XX was amended in August 1981 by Pub. L. 97–35, the Omnibus Budget Reconciliation Act, to create a new social services block grant program (SSBG). Eligibility for social services under the SSBG is at State option.

In the past, Federal matching funds for AFDC–FC payments have been available to States on an open-ended, entitlement basis. Under Pub. L. 96–272 and under the amended title IV–A foster care program, there is a ceiling on foster care FFP funds for each fiscal year 1982 to 1984, if the appropriations for title IV–B child welfare services are made by Congress in advance of the fiscal year and if they equal or exceed specified amounts: $163.55M for fiscal year 1981, $220M for fiscal year 1982, and $266M for each of fiscal years 1983 and 1984 (sec. 474(b)(1) and (2) of the Act). Federal funds made available to a State under its title IV–E foster care allotment ceiling, which are not needed for this program's foster care maintenance expenditures, may be transferred to the child welfare services program under title IV–B (at a 75 percent matching rate), under certain conditions (Sec. 474(c) of the Act). Section 474(c)(4)(a) of the Act provides that no State may increase its title IV–B funds by a transfer of title IV–E or IV–A funds beyond its share of $141M until it has implemented the protections required by section 427(a) of the Act. Section 102(a)(2)(B) of Pub. L. 96–272 makes the same requirement applicable to transfers of funds under title IV–A. This new Notice of Proposed Rulemaking (NPRM) clarifies that the transfer requirements are different when the "trigger" amounts in fiscal years 1981–84 are not reached. The statute applies the ceiling and transfer provisions equally to foster care under title IV–E and IV–A. Under the old law, States received Federal matching for AFDC payments (including AFDC–FC payments) on the basis of either the AFDC formula (used by only four States) or the Medicaid matching formula. All FFP for foster care maintenance payments and adoption assistance payments under the title IV–E program are determined using the Medicaid matching formula (Sec. 474(a)(1) and (2) of the Act).

Children Voluntarily Placed in Foster Care: In the past, Federal AFDC matching funds were not available for children placed in foster care without a judicial determination. Section 102 of Pub. L 96–272 temporarily amends title IV–E to authorize FFP in expenditures made after September 30, 1980 and before October 1, 1983 (and under title IV–A, expenditures made after September 30, 1979, and before October 1, 1982) for foster care maintenance payments with respect to an eligible child removed from home under a voluntary placement agreement. FFP is available only for expenditures made on behalf of voluntarily placed children after the State has implemented the protections and procedures mandated by section 427(b) of the Act.

Adoption Assistance Program: Pub. L. 96–272 provides for FFP in State adoption assistance payments (sec. 473 of the Act). There was no such authority prior to Pub. L. 96–272. States participating in the title IV–E program are required to establish a program of adoption assistance payments (sec. 471(a)(1) of the Act). FFP in adoption assistance payments is available for those eligible children adopted on or after June 17, 1980 if a valid adoption assistance agreement has been made. However, for those children adopted on or after June 17, 1980 but prior to the effective date of the State's title IV–E plan, FFP for these payments will be available only from the effective date of the State plan. FFP for adoption assistance is available for a child with "Special Needs" who is eligible for SSI, AFDC, or foster care maintenance payments under title IV–E.

An adoption assistance agreement is required for each child and is defined in section 475(3) of the Act. Children receiving adoption assistance payments under title IV–E are considered to be receiving AFDC and therefore eligible for Medicaid (as categorically needy) (sec. 473(b) of the Act). They may also be eligible for social services under the SSBG as determined by the State. FFP for adoption assistance payments is available for children under age 18 or age 21 under certain circumstances) on an open-ended entitlement basis and is based on the Medicaid matching formula (sec. 474(a)(2) of the Act).

Title IV–B Child Welfare Services Program

Pub. L. 96–272 also amended title IV–B of the Act to consolidate, restate and in some instances modify the existing Child Welfare Services program. Historically, title IV–B has provided Federal grants to establish, extend and strengthen child welfare services in the States. Grants are made to State agencies on the basis of a plan developed jointly by the Administration for Children, Youth and Families' (ACYF) Children's Bureau and the State agency. The amended Act reaffirms this partnership between the Federal and State goverments for the provision of child welfare services by the State.

Under title IV–B, formula grants are allocated to the States for providing and improving child welfare services to children and families in need of services (sec. 1357.20(b)). There are no income based eligibility requirements under title IV–B.

In recent years States have used approximately 70 to 80% of title IV–B funds for foster care maintenance payments. Other services which have been provided include adoption, day care and protective services to abused and neglected children.

The Act contains sections which include a list of the title IV–B State plan requirements, the method of computing and making and realloting IV–B payments, the requirements for a State to be eligible for its proportionate share of payments above 141 million dollars, and language permitting the Department to make grants directly to Indian tribal organizations. The last two sections are significant new additions to title IV–B and will be discussed more extensively later in this preamble.

III. Notice of Proposed Rulemaking, December 31, 1980

Following publication of the Notice of Proposed Rulemaking (NPRM) in the Federal Register on December 31, 1980 (45 FR 86817–86850), the Department mailed 25,000 copies of that NPRM to individuals, organizations and public agencies. In January, 1981, hearings were held in each of the ten HHS regions. In addition to the presentation of formal testimony, these hearings included sessions of open discussion between the public and Federal staff. Verbatim transcripts were taken of all testimony and discussion at the ten public regional meetings and later analyzed.

During the 75-day comment period after publication of the first NPRM, approximately 450 comments in addition to the testimony and discussion from the regional hearings were received. These comments varied greatly in both length and detail. Although there were differing views concerning the proposed regulation, there was broad based support for the law and its proposed reforms.

The commenters included public interest organizations, professional groups, State agencies, municipal agencies, universities and individual respondents. Some written comments were very brief and general; others were detailed, section-by-section analyses of the regulations. Many respondents suggested specific regulatory language for their recommended changes.

Many comments supported detailed requirements and explicit regulatory expectations as essential to bring about the changes envisioned in the law. Most advocacy organizations that commented on costs believed that the increased authorization in the law provided States with adequate funds to implement the regulation. Some noted the cost savings contemplated in the law and the regulation would result from reducing the number of children placed in extended institutional care and the cost benefits of permanency planning (reunification with families and adoption) when compared with long-term foster care placement.

Other respondents, including twenty-nine State agencies that either administer directly or supervise the administration of child welfare service programs, prepared detailed analyses of the NPRM offering support for some sections and detailed criticism of other sections. In general, however, State agencies objected to the numerous specific requirements in the December 31, 1980 NPRM. States recommended regulatory language that adhered closely to the law, increased State flexibility and programmatic discretion, and limited the Federal role to those activities specifically provided for in the law. State agencies were also concerned that specific requirements would impose costs that would add additional pressure to already overextended State budgets.

IV. Approach to Writing the Second Notice of Proposed Rulemaking

In reviewing the initial NPRM, we concluded that substantial revisions are appropriate. In addition to certain deficiencies noted in comments, the proposed regulations contained a number of provisions that, we now believe, would unduly limit State flexibility or impose unjustifiable costs. The proposal has therefore been thoroughly evaluated and revised and inappropriate provisions have been eliminated.

Given the magnitude of these changes and expressed public interest in this regulation, the Department is withdrawing the NPRM published on December 31, 1980, and is proposing these revised rules. The Department believes it beneficial and essential to obtain new comment on this revised proposal before publishing a final regulation. The comment period will extend for 60 days. Comments submitted in response to the withdrawn NPRM will not be considered in the development of the final rule.

The revised NPRM references the law wherever possible, deletes most language in the NPRM that repeated statutory requirements, and removes many of the detailed and specific requirements contained in the NPRM. The Department has added regulatory requirements only in those areas where clarification or specificity is needed to carry out the intent of the law.

In this effort the Department has been aided by the wording of the law which in many sections is precise, explicit and unusually detailed. We believe these stated requirements clearly reflect Congressional intent and make further clarification or regulation unnecessary. In other areas, statutory language suggests Congress chose to leave discretion to the Secretary. The Secretary has used this discretion to permit States flexibility in implementing these sections of the statute.

In writing this proposed regulation, HHS has also made every effort to be sensitive to State practice by incorporating State recommendations wherever possible. Overall our purpose has been to prepare a regulation that produces the desired changes while adhering closely to the law and allowing flexibility in the means of producing the changes required by the law.

V. Section by Section Discussion of the NPRM

a. Part 1355—This Part applies to both the title IV–E and the IV–B programs. In this section we are proposing two definitions that clarify the law. We are defining the term "detention" in the context of the definition of "child care institution" in section 472(c)(2) of the Act to differentiate among child caring institutions eligible for foster care mainenance payments. Our purpose is to make clear that detention facilities are not eligible child caring institutions under this program.

We are defining "foster family home" (sec. 472(c)(1) of the Act) to make clear that foster homes licensed or approved by the responsible tribal authority(ies) meet the definition of a foster family home.

The passage of the Social Services Block Grant (SSBG) necessitates a clarification of the single State agency requirement under title IV–B. Prior to the passage of the SSBG legislation, the State agency designated to administer the title XX program was required to administer (or supervise the administration of) the title IV–B program. The SSBG does not require the designation of a single State agency to administer the block grant. This second NPRM, therefore, leaves to the State the decision on program organization regarding which State agenc(ies) shall administer the programs under title IV-E, IV–B and SSBG. It should be noted, however, that the statutory requirement of a single State agency to operate both the title IV–E and title IV–B programs was not affected by the SSBG legislation and remains unchanged (sec. 471(a)(2) of the Act and § 1355.21(a)).

In § 1355.21(b), the Department has included the regulatory provision to implement section 471(a)(8). In addition to the confidentially requirements of this section, the Department has concluded that it is necessary to provide for restricted access to the records of title

IV–B service recipients. It is clear from the intent of Pub. L. 96–272 that the programs under titles IV–E and IV–B are to be closely related and interactive. Therefore, it would defeat the intent of the confidentiality provisions of title IV–E, which is the maintenance title, if sensitive information were inappropriately accessible through the files of the complementary service title, title IV–B. Hence, the Department has chosen to impose the confidentiality requirement on title IV–B as well as title IV–E.

b. Part 1356–Requirements applicable to title IV–E.

Section 471 of the Act and § 1356.20 of this proposed regulation contain the statutory and regulatory provisions regarding State plan requirements for title IV–E.

Passage of the SSBG made two additional changes affecting the title IV–E program. Section 472(d) of the Act (sec. 472(h), as amended) extends title XIX and title XX eligibility to title IV–E eligible children. However, the SSBG which replaced the former title XX program grants to each State the authority to determine both the services to be provided and the eligibility criteria for service recipients. Since section 472(h) deems children receiving title IV–E foster care payments to be children receiving AFDC payments, title IV–E children can receive social services only if States choose to provide these services to AFDC children or in some other way extend eligibility to these children (e.g., by explicitly covering children receiving title IV–E payments). Given this change, foster care recipients maintain their title XIX eligibility, as section 472(h) of the Act mandates, but the States have discretion to determine what services, if any, will be available under the SSBG.

Pub. L. 97–35 (SSBG) also changed section 471(a)(10) of the Act. Section 2353(s) rescinded the Federal Day Care Requirements and required that day care provided with Federal matching funds must meet applicable State and local rather than Federal standards. However, an erroneous cross-reference in section 2353(r) provides that the standards in effect in the State with respect to child day care services under title XX will apply to foster family homes and child care institutions receiving title IV–B or IV–E funds. The Department has offered a technical amendment which will delete this erroneous cross-reference and provide that States must designate a State authority responsible for establishing and maintaining standards for the safety and health of children in foster homes and institutions. This will carry out the intent of the original cross-reference to section 2003(d)(1)(F) of the former title XX program.

Section 1356.20(c) provides that the title IV–E State plans shall be submitted consistent with the procedures contained in 45 CFR 201.3. The content of the State plan must meet the requirements of section 471(a) of the Act and may be submitted in a format determined by the State.

Consistent with the Department's effort to reduce the paperwork and reporting burden of these regulations, States may submit their original title IV–E State plan document once and amend it as needed or required. The State plan need not be submitted annually. Only the changes or amendments need be submitted.

In § 1356.21, we have set forth the additional foster care maintenance requirements that States have to meet in implementing the State plan. Consistent with our new approach to writing this regulation, we have not repeated the requirements of the law and have proposed provisions only in those areas where we believe clarification would be beneficial to States or individuals or where regulation is necessary to carry out the intent of the law.

Section 1356.21 (b) and (c) propose additional requirements to implement the case review system. This section proposes that the initial case plan covering all of the essential elements be developed within a reasonable time period, to be established by the State, but in no event longer than 60 days, starting at the time the agency assumes responsbility for providing services or placing the child. The Department received comments recommending both specific and open-ended time periods. We believe this provision will permit States the needed flexibility to develop a responsible time period to attend to the child's needs and provide adequate time for the agency and the family to assess the situation, set goals, identify needed services, and estimate a date when reunification is to take place or an alternate plan undertaken. In addition, this provision is consistent with the statutorily mandated six month periodic reviews. The first and subsequent reviews will primarily focus on the needs of the child and family and the services provided. The 60 day limit is designed to ensure that each child will have a case plan and that the plan will be the standard against which the review will measure progress and the need for changes. The NPRM through a cross reference to section 475(1) of the Act also proposes that the case plan include a discussion of the appropriateness of the services that have been provided to the child under the case plan. This information will provide accountability for the child's movement within the foster care system and for the outcome of the services provided. Moreover, the Department is requiring the State agency to develop policy materials and instructions for use by State and local staff in making the decisions about the appropriateness and necessity for the foster care placement of the child. This provision is intended to ensure that the placement decision-making process, so vital to the child's future, is objectively and consistently applied and responsive to the child's needs.

With regard to the dispositional hearing (§ 1356.21(d)), the initial hearing must take place no later than eighteen months after the original placement. The NPRM proposes that subsequent dispositional hearings be held within a reasonable time period thereafter rather than annually as the first NPRM had proposed. The State is permitted the flexibility to define a reasonable time period.

Section 1356.21(e) of this NPRM specifies that States must make "reasonable efforts" to prevent placement or to reunify the family in accordance with section 471(a)(15) of the Act. This proposed regulation defines reasonable efforts as the State having services systems in place that meet the requirements of section 427 (a)(2)(C) and (b)(3) of the Act. A discussion of these services provided to the child and family must be included in the case plan in accordance with the case plan requirements.

Section 1356.21(f) of this NPRM implements section 471(a)(14) of the Act. This NPRM accommodates the comments and recommendations of many States to the first NPRM by permitting States to incorporate the required goals into State law either by statute or by administrative regulation provided that such regulations have the force and effect of law in the State.

Section 1356.21(g) implements section 471(a)(11) of the Act. This NPRM provides that each State must conduct a review of the foster care maintenance payments, adoption assistance and State foster care standards within reasonable time periods to be established by the State. As with many other provisions in the Act that use the term "periodic," the Department has chosen to give States the latitude to specify a reasonable time period that is in accordance with the intent of the Act. This NPRM does not require public involvement in the review process. However, public involvement is strongly

recommended as a benefit to the State and affected constituencies.

Commenters requested clarification with regard to the periodic review in section 475(6) of the Act. The Act states that an administrative review panel must include at least one person who is not directly responsible for the case management or the delivery of services to the child and parent(s) who are subjects of the review. Commenters were concerned that the wording of the earlier NPRM raised new questions. This NPRM references the wording of the statute. This individual who is outside of the direct line of supervision must not be the worker, that worker's supervisor, or persons at other levels of supervision or administration who could directly influence the placement of the child. This provision does not exclude these agency personnel from being a part of the review panel. However, at least one other member who is not in that direct line of influence and who can provide a point of view independent of those in line authority must be a member of the review panel.

The State agency has responsibility for establishing its own review system, according to its own needs and resources. The proposed regulation does not prescribe how a State is to do this, as limitations on the time of agency staff and volunteers will determine the number of panels that must be appointed to review the State agency's cases.

Provisions implementing voluntary placements are contained in § 1356.30. Section 102(a)(1) of Pub. L. 96–272 amends section 472 of the Act by providing for FFP in the costs of foster care maintenance payments for children voluntarily placed in foster care under a voluntary placement agreement. This provision applies to expenditures for voluntary placements made after September 30, 1980, and before October 1, 1983 under the title IV–E program, and for voluntary placements made under the title IV–A(FC) program after September 30, 1979 and before October 1, 1982.

The provision in the Act for FFP for voluntary foster care placements is a significant departure from the earlier title IV–A foster care program in which only placements resulting from judicial orders were considered eligible for FFP. Federal financial participation in the cost of voluntary foster care placements is available when the title IV–E plan requirements are met and all the provisions contained in section 427(b) of the Act are in place and operating in the State.

Participation by the State in this new program is optional. Therefore, the statutory requirements regarding the voluntary placement program in section 472 of the Act, as amended, become State plan requirements only if a State elects to participate in this program.

To implement the provision for voluntary placement, we have added provisions in § 1356.30. Section 1356.30(b) clarifies that FFP is available for foster care maintenance expenditures only within the first 180 days after the *original* voluntary foster care placement unless there has been a judicial determination within the 180 day period that continued voluntary placement is in the best interest of the child. The first NPRM did not make clear that the term "placement" meant original placement.

The first NPRM also proposed that in order to request return of a child placed under a voluntary agreement, parents had to give written notice to the agency at least five working days in advance. Section 1356.30(c) of this NPRM deletes that requirement and provides that each State establish and maintain a uniform procedure for revocation consistent with its own State law. The Department believes that each State should be given the flexibility to develop requirements best suited to its circumstances.

Section 1356.40 proposes to implement section 473 of the Act which contains the statutory requirements for the Adoption Assistance Program. For the first time, Federal financial participation is available to provide adoption assistance for children with "special needs." The substantial costs of providing proper care for children with special needs has been a significant hindrance to the adoption of thousands of AFDC-foster care children.

The requirements for the adoption assistance program are proposed in § 1356.40 of the NPRM. The Department has incorporated the view of many who recommended that a completed adoption assistance agreement must include the amount of assistance and services to be provided, the duration of the agreement, and an eligibility clause for services provided under title XIX (§ 1356.40(b)). Payments are conditioned upon the signing of the agreement prior to or at the time of the interlocutory or final decree of adoption.

In response to comments on the first NPRM questioning whether a means test should be applied, § 1356.40(d) makes clear, based on the legislative history, that there shall be no income eligibility requirement (means test) for prospective adoptive parents in determining eligibility for adoption assistance payments. However, section 473(a)(2) of the Act requires that the amount of the adoption assistance payment be determined in part by the circumstances of the adopting parents.

Section 475(3) of the Act requires that adoption assistance agreements contain a provision protecting the interests of the child when the adoptive family moves to another State. For agreements entered into on or after October 1, 1983, the adoption assistance agreement shall remain in effect regardless of the State of residence of the adoptive parent(s) and the child. If the needed services specified in the agreement are not available in the State to which the family moves, the State making the adoption assistance payment remains financially responsible for providing the services (§ 1356.40(e)).

The proposed rule also provides that a State may place a child under an adoption assistance agreement with adoptive parents who reside in another State. In this event, all of the requirements of § 1356.40 would apply.

Commenters to the December 31, 1980 NPRM made suggestions as to when adoption assistance payments should begin. Congress specified that adoption assistance payments were to begin at the time of adoption. However, if an interlocutory decree granting the prospective adoptive parent(s) guardianship or legal custody pending a final decree of adoption is issued, payments may begin at that time. The intent of Congress was to ensure that these children have the additional procedural safeguards provided by a judical determination. The option of having assistance begin at placement for adoption was rejected as contrary to Congressional intent to subsidize only actual adoptions.

The earlier NPRM required promotion of the adoption assistance program. This NPRM modifies that provison. The Department believes that States are best equipped to decide how to promote the program. Therefore, the Department has maintained the general promotion requirement while eliminating the specificity on how this should be done. The Department has chosen this modified approach in the belief that a primary intent of Pub. L. 96–272 is to move children out of foster care and into permanent arrangements. This requirement is intended to move toward that end while giving the States flexibility on how it should be implemented.

The basis and procedure by which the Department would, if necessary, withhold funds based on non-compliance with the State plan are stated in § 1356.50. The proposed regulation adopts present Department-

wide procedures (45 CFR Part 213) for handling non-compliance actions.

Paragraph (a) of this section has been added to clarify what requirements must be met to be in compliance with the State plan. However, it is anticipated that the Department will not use this authority unless and until other less formal methods of ensuring compliance with the approved title IV–E State plan requirements have been exhausted.

The sections of the regulation pertaining to the title IV–E fiscal requirements (§§ 1356.30, 1356.60, 1356.65, 1356.70) are being published as a final regulation, and are not included in this NPRM. The final regulation is published concurrently with this NPRM and should be read in close conjunction with this NPRM to understand fully both regulations. There is one exception: Section 1356.60(a), Federal matching funds for foster care maintenance and adoption assistance payments, is being published as a final rule with references only to the statutory provisions. In this NPRM, the provisions of the proposed rule are also referenced.

c. Part 1357—Child Welfare Services

Section 1357.10(c) of this regulation proposes several definitions. Commenters to the first NPRM indicated some confusion about the meaning of "child welfare services" as it relates to many provisions in this proposed regulation. The statutory definition (sec. 425(a)(1)) of "child welfare services" is comprehensive and the Department has interpreted it to include all public social services directed toward the accomplishment of the stated objectives. This interpretation is supported by both the legislative history and the intent of the Pub. L. 96–272. It is clear from the history which gave rise to this definition that Congress intended the approach to child welfare services to be comprehensive and coordinated. The links between the title IV–B and IV–E programs found in Pub. L. 96–272 are but simple examples of this clear intent. This means that the definition is *not* limited to only those services funded under title IV–B as some commenters to the first NPRM suggested. Consequently, we propose that the State must use this definition (sec. 425(a)(1)) to meet the statutory requirements that the State plan "* * * contain a description of the services provided * * *" and "* * * contain a description of the steps which the State will take to provide child welfare services and to make progress in * * *" (sec. 422(b)(6)).

This proposed regulation (§ 1357.15(a)(2)) requires a description of all child welfare services to be provided, the geographic areas in which they are available and what is being done to expand, improve and strengthen those services or provide new ones. All child welfare services that come under the definition contained in the law are to be described regardless of funding source.

In order to provide greater flexibility in planning, we have proposed in § 1357.15 (b) and (d) to allow States to submit their plans in a form determined by them and to remain in effect for one, two or three year periods. Although the Department previously published "Guidelines for Development of State Child Welfare Services Plans," on January 6, 1981, the States are free to use whatever format they choose for their title IV–B State plan. These guidelines are advisory and are intended only as an aid to the States.

Section 422 of the Act contains the State plan requirements for title IV–B. Included in proposed § 1357.15 are requirements which cross reference and incorporate other sections of the Act. In commenting on the earlier NPRM, some State agencies requested clarification of their responsibilties for joint planning under the title IV–B if they were participating in the Department's Consolidated Plan Demonstration Project, or the Office of Human Development Services' Plan Simplification Project. States participating in these projects must comply with the requirement of joint planning.

In addition to the foregoing requirements, the Department is including another title IV–B State plan requirement regarding the implementation of preplacement preventive and reunification services. The Department is requiring that the State specify in its title IV–B State plan which preplacement preventive and reunification services are available. To aid in the development of these services programs, the Department has included in the NPRM a list of examples from which the States are free to choose any, all or none (§ 1357.15(e)). (Additional discussion of these services programs is found in the section 427 portion of the preamble.)

Section 1357.20 contains the requirements of the Child Abuse Prevention and Treatment Act of 1974, as amended, 42 U.S.C. 5103(b)(3) (Pub. L. 93–247) that apply to title IV–B. These requirements must be met if a State chooses to fund any child abuse and neglect programs and projects under title IV–B of the Act.

The Department has chosen to include these provisions in this proposed regulation so that all title IV–B requirements may be located in the same Part of the Code of Federal Regulations, Part 1357. In addition, the Department proposes to delete Part 1392 which presently contains these requirements.

Section 1357.25 implements section 427 of the Act. To help finance the services required and to encourage changes in the foster care system, Congress provided that a State must establish certain protections and procedures. Section 427 of the Act establishes these requirements which apply to several fiscal activities.

To be eligible:

(1) for title IV–B funds in excess of its proportionate share of $141 million (sec. 427(a)), or

(2) to transfer funds not needed for foster care under title IV–A or IV–E to title IV–B for use in the provision of child welfare services in an amount which, together with the States' IV–B allotment would exceed its share of $141 million (sec. 474(c)(4)(A)), a State must meet the following conditions of section 427(a):

1. it must have conducted an inventory of all children who have been in foster care in the State for six months or more and made certain determinations as to the appropriateness and necessity of the placement; and

2. it must have implemented and be operating—

A. a statewide information system for every child in foster care; and

B. a case review system for each child in foster care; and

C. a service program designed to reunify families or achieve other permanent placement.

The Department received many comments on the requirements for the inventory and Statewide information system. Many organizations supported the provisions of the first NPRM or suggested more detailed requirements. Others recommended revising the final regulation to permit States greater flexibility in implementing the statutory provisions. The Department supports the latter approach and revised this NPRM to reference the language of the law. The Department believes this approach will minimize burden and costs imposed on the States without significantly affecting the expected outcomes.

To meet the provisions of section 427(a) of the Act, the Department proposes to require the States to collect and maintain information (inventory and Statewide information system, § 1357.25(b)) only for those children under the care and responsibility of the State's titles IV–E (or IV–A(FC)) and IV–B agency(ies). States are free to include additional children in either the inventory or the Statewide information

system at their option. The scope of the inventory and statewide information system requirements stated above are based in large part upon the findings of the 1977 National Study of children in foster care. That study, and the resulting determination that there were approximately 500,000 children in foster care, limited its investigation to those children under the responsibility of the State agencies described above.

The first NPRM prescribed the required elements in the inventory and Statewide information system. In this second NPRM, we have proposed to limit the nature of the Statewide information system to the requirements specified in the Act (sec. 427(a)(2)(A)). For the nature and content of the inventory required by section 427(a)(1) of the Act, the statutory language is sufficiently specific to require only a cross-reference in this proposed regulation.

States must meet the conditions in section 427(a) and implement and operate a program of preplacement preventive services (sec. 427(b)(3)) in order to:

1. avoid reduction of its funds to the level of Fiscal Year 1979, if title IV–B appropriations reach $266 million for two consecutive years (427(b) of the Act); or

2. receive Federal financial participation under titles IV–A or IV–E for foster care maintenance payments made on behalf of children placed pursuant to a voluntary placement agreement (section 102 of Pub. L. 96–272); or

3. transfer funds not needed for foster care under title IV–E or title IV–A to title IV–B for use in the provision of child welfare services, when appropriations under title IV–B have equaled or exceed $266 million for two consecutive years (section 474(c)(4)(B)); or when the State has claimed reimbursement under title IV–B in a sum equal to or exceeding its share of $266 million for two consecutive years (section 474(c)(4)(C)).

The Department also proposes to leave the decision on the nature and content of the reunification and preplacement preventive services programs to States.

One way States may meet the reunification requirement is by ensuring that reunification services are available and provided to children and families in need by specifying the services available, developing appropriate procedures and instructions for staff, and determining services delivery in relevant cases.

Section 427(a)(2)(C) also requires that a service program designed to help children be placed for adoption or legal guardianship be implemented and operating in each State. As with reunification services and all child welfare services, these adoption services must be available to children and families in need of these services.

The sections of the regulation setting forth the title IV–B fiscal requirements (§§ 1355.30 and 1357.30) are being published as a final regulation and, therefore, are not included in this proposed rule. They are being published concurrently with this NPRM and should be read in close conjunction with the NPRM to fully understand both. The reasons for publishing the fiscal sections as a final rule and discussion of those sections are contained in the preamble to the final regulation.

Section 1357.40 of this regulation implements section 428 of the Act which gives the Secretary discretion to decide whether a program of direct grants to Indian tribal organizations (ITO) should be established, which Indian tribal organizations should be eligible to receive funds directly and under what circumstances direct payments should be made available.

The Department believes that direct funding of Indian tribes will strengthen the tribal child welfare services programs consistent with the goals and requirements of Pub. L. 96–272. In the legislative history to Pub. L. 96–272 (Congressional Record, June 13, 1980, S. 6944), Senator Cranston indicated that direct funding was included in the legislation because jurisdictional and other problems sometimes caused Indian communities to be left out of social service programs funded through State agencies. This NPRM proposes to permit Indian tribal organizations meeting the eligibility requirements to apply directly to the Federal government for their share of the State title IV–B funds. The Department believes in self-determination for Indian tribes consistent with a direct government to government relationship. This principle is affirmed by the Indian Self-Determination Act (Pub. L. 93–638) and other Federal programs.

However, the Department recognizes that many tribal organizations may choose not to apply for direct funding for various reasons. For example, the tribal organization may consider the money available too small to warrant application; the tribal organization may have established a cooperative relationship with the State; or the tribal organization may determine that fewer services are available under direct grants than under a State's regular title IV–B program. However, if a direct grant is made to an Indian tribal organization, States will not be relieved of their responsibility under other Federal programs and under the Constitution to serve Indians in a non-discriminatory manner.

The substance of the requirements in this NPRM are consistent with those imposed upon the States. In determining which Indian tribal organizations will be eligible for direct funding, the Department has decided to make the option of applying for direct funding available to those Indian tribal organizations which have contracted under Pub. L. 93–638 (Indian Self-Determination Act) for child welfare services provided under 25 U.S.C. 13 (25 CFR Part 20) and are located in States with approved title IV–B State Plans. This NPRM addresses the concern expressed about the lack of services to Indians by permitting direct funding to Indian tribal organizations that have established the need for child welfare services and have taken advantage of the opportunity for direct management and operation of a tribal child welfare services program. Under this approach, direct grants will be added to existing, ongoing Indian child welfare programs operated by the tribal organizations. The title IV–B funds are intended to be linked to the other major Indian Federal social services program, will support Indian self-determination, and will complement the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95–608). This is important since title IV–B funds alone are insufficient for an Indian tribal organization to establish and operate a basic child welfare services program. Aggregating funds from different Federal sources to intensify their impact is consistent with the thrust of the title IV–B law which promotes progressive, comprehensive, quality child welfare services to children and families.

The Department considered other options for determining tribal eligibility to receive direct grants. One option, relating eligibility to a minimum number of children in each tribe, was rejected as arbitrary and lacking in programmatic justification. A second option established eligibility criteria based on management capability and adherence to specific title IV–B requirements. This option was rejected as duplicative of the developmental and capacity-building resources currently available through other programs such as title II of the Indian Child Welfare Act (Pub. L. 95–608) and the Native American Programs Act of 1974 (Pub. L. 93–644, as amended).

In determining the amount of direct funding that would be available to an Indian tribal organization eligible under this provision, the Secretary will apply a

formula similar to the one used to calculate State allotments under title IV–B. This formula takes into consideration the Indian tribe's resident population under 21 and its per capita income.

Because current per capita income figures for Indian tribes are not available, and most Indian tribes would have very low per capita income similar to the Territories, a maximum allotment percentage of 70.0 per centum, the same per centum used for the title IV–B allotments of the Territories, has been used.

For the balance of a State's population, excluding tribal population, the per capita income is estimated to be slightly higher than the State's average per capita income for the entire population.

Using these allotment percentages to calculate an Indian tribal organization's allotment results in an amount which bears approximately the same ratio to the total State's title IV–B allotment as the product of 1.5 times the proportion of the Indian tribe's resident population under 21 bears to the State's total population under 21. Other funding allocation options were considered and rejected as unsupportable by the intent of the law.

In the first NPRM, the Department had proposed to begin direct funding in the first quarter of Fiscal Year 1982. Implementation of this provision must await publication of the final rule and the statutory waiting period which is thirty days following publication of the final regulation.

Each eligible Indian tribal organization or consortium applying for a direct title IV–B grant will be required to submit a child welfare services plan that has been developed jointly by Federal and Indian tribal organization representatives. Although the requirements in the jointly developed plan for Indian tribal organizations will differ slightly from the requirements in the State plan, the tribal organization's plan will foster the service improvements envisioned in, and consistent with, the requirements in the law.

The plan which can be in effect for two or three years, must meet the requirements of sections 422(a) and 422(b)(2) through (b)(8) of the Act as well as this regulation. However, as with the States, the format of the plan will be left to the discretion of the Indian tribal organizations. In addition to the jointly developed plan, each tribal organization applying for a direct grant must submit an annual operating budget on forms and in a manner prescribed by the Secretary.

If eligible Indian tribal organizations that apply for direct funds wish to receive their share of additional title IV–B funds above $141 million, they must meet the requirements under section 427 of the Act. The requirements under IV–B and additionally those related to eligibility for funds above $141 million are discussed more fully under the title IV–B section of this preamble.

In reviewing the first NPRM comments for this section, two general procedural issues were raised. First, how is the State to interact with the tribal organization? Second, since the direct grant funds are to come from a State's allocation, how is the State to be kept informed?

In response to these issues, the Department looked carefully at the earlier NPRM and the comments. To resolve the information flow problem between States and the tribal entities, three new provisions have been added to the NPRM. First, when an Indian tribal organization submits its jointly developed plan, it shall notify the State title IV–B agency. If the State title IV–B agency requests a copy of the ITO's title IV–B plan, the ITO shall provide such. Second, the State(s) shall provide a copy of its title IV–B State plan to the ITO upon request. Third, upon the Department's approval of a direct grant, the Department will promptly notify the affected State(s).

VI. Changes Made in the Code of Federal Regulations

This proposed regulation would remove Part 1392 of this title, which currently contains requirements for the title IV–B program and the title IV–A program of services to the territories. The title IV–A services program was abolished by the Omnibus Budget Reconciliation Act of 1981. Services are now funded in the Territories under the SSBG. In addition, this proposed regulation would amend the three new parts (Parts 1355, 1356 and 1357) in Subchapter G (The Administration for Children, Youth and Families, Foster Care and Adoption Assistance; Child Welfare Services), created by the final regulation.

The Department is publishing a final regulation for the fiscal sections implementing Pub. L. 96–272 concurrently with this regulation. The Department will also publish separately a regulation concerning Medicaid eligibility for children receiving foster care maintenance and adoption assistance payments under the title IV–E program.

VII. Impact Analysis

a. Executive Order 12291.—The Secretary has determined, in accordance with Executive Order 12291, that this proposed rule does not constitute a major rule because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or process for consumers, any industries, any governmental agency or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

b. Regulatory Flexibility Act.—The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed or final rule if the rule would have a significant economic impact on a substantial number of "small entities," i.e. small businesses, small non-profit organizations, or small governmental jurisdictions.

Although actual delivery of services may be provided in some circumstances by proprietary, public and not-for-profit agencies or organizations under contract to the State agency, the responsibility for meeting the requirements of these regulations is on the State agencies, which are not "small entities" within the meaning of the Act. This proposed rule will impose no significant burdens on States or other affected parties and will provide flexibility to States in implementing the provisions of the Act. For these reasons, the Secretary hereby certifies that these regulations will not have a significant impact on a substantial number of small entities.

c. Recordkeeping and Reporting Requirements.—Under the Paperwork Reduction Act of 1980, the Department is required to submit to the Office of Management and Budget for approval of any information collection or reporting requirements. This proposed regulation contains the following such requirements:

(a) §1356.20. State Plan Document and Submission Requirements (IV–E)

(b) §1357.15. Child Welfare Services State Plan Requirements and Submittal (IV–B)

(c) §1357.40(c) & (d). Title IV–B State Plan Requirements (for Indian Tribes and Tribal Organizations)

In addition, section 427(a)(2)(A) of the Act (Statewide Information System) is also subject to the approval of OMB under the Paperwork Reduction Act of 1980.

Clearance packages for the Statewide Information System and these three sections of the regulations requiring development of State plans will be submitted to OMB for approval. Since the requirements in these regulations are no more comprehensive than the legislation, the Department will not require specific formats for the State plans. Therefore, the reporting burden will be minimal.

The requirements of section 476(a) and (b) of the Act (Technical Assistance; Data collection and Evaluation), which were included in the earlier NPRM at § 1356.30(i), have been deleted from this NPRM. If the Department determines that specific reporting and recordkeeping requirements to implement this section are necessary at some future date, such requirements will be submitted to OMB for approval at that time.

Further, in order to meet the very specific and detailed requirements of Pub. L. 96–272 States must maintain a variety of records and documents. Examples of these requirements are: an inventory of all children in foster care in the State for the preceding six months (sec. 427(a)(1)); a case plan for each child (sec. 471(a) and 475(5)); other records needed to establish a basis for FFP; and verification that the State has met the requirements for additional payments (sec. 427(a) and (b)). The Department does not plan to mandate detailed requirements on how these records must be maintained (other than the general requirements of 45 CFR Part 74), but States will be required to produce evidence that they are following the provisions of the statute during on-site monitoring or auditing by the Department.

VIII. List of Subjects in 45 CFR

Part 1355

Information (Confidentiality).

Part 1356

Adoption assistance, Administrative costs, Administrative practice and procedure, Administrative reviews, Allotments to States, Case plan, Case review system, Contracts (Agreements), Definitions, Dispositional hearings, Federal financial participation, Foster care allotments, Foster Care maintenance payments Medicaid, Preplacement preventive services, Reunification services, Social services, Statewide information system, State plans, Training, Voluntary placements

Part 1357

Child welfare services, Federal financial participation, Foster care, Grants-in-Aid program, Indians, Inventory, Preplacement preventive services, Reunification services, State plan, Training,

Part 1392

Aid to Families with Dependent Children, Child welfare, Grant program–social programs, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands, Volunteers.

(Catalog of Federal Domestic Assistance Program No. 13.645, Child Welfare Services—State Grants, 13.658, Foster Care Maintenance, and 13.659, and Adoption assistance)

Dated: April 2, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: May 17, 1982.

Richard S. Schweiker,

Secretary for Health and Human Services.

45 CFR Chapter XIII is proposed to be amended for the reasons set forth in the preamble as follows:

PART 1355—GENERAL

1. Part 1355 is amended by adding §§ 1355.10, 1355.20 and 1355.21 to read as follows:

§ 1355.10 Scope.

Part 1355 applies to State programs and the requirements for Federal financial participation under titles IV–E and IV–B of the Social Security Act, as amended.

§ 1355.20 Definitions.

(a) Unless otherwise specified, the following terms as they appear in Parts 1355, 1356 and 1357 of this title are defined as follows—

Act means the Social Security Act, as amended.

ACYF means Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health and Human Services.

Child abuse and Neglect means the definition contained in 45 CFR 1340.1–2(b), Child Abuse and Neglect Prevention and Treatment Program.

Commissioner means the Commissioner for Children, Youth and Families (ACYF), Office of Human Development Services, U.S. Department of Health and Human Services.

Detention in the context of the definition of child care institution in section 472(c)(2) of the act means the care of a youth determined to be delinquent who requires secure custody in a physical restricting facility pending court disposition, execution of a court order or after commitment.

Foster family home means the home of an individual or family licensed or approved by the State licensing or approval authority(ies) (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that provides 24-hour out-of-home care for children. The term may include group homes if they are licensed or approved by the State as foster homes.

State means the 50 States, the District of Columbia, and, except in §§ 1356.65 and 1356.70, the Commonwealth of Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands.

State agency means the State agency administering or supervising the adminstration of the title IV–E and title IV–B State plans. For purposes of this defintion, State agency shall include a local agency if it is administering the State plan on behalf of the State agency under an agreement which is till in effect.

(b) Unless otherwise specified, the definitions contained in section 475 of the Act shall apply to all programs under titles IV–E and IV–B of the Act.

§ 1355.21 State plan requirements for titles IV–E and IV–B.

(a) The State plan for titles IV–E and IV–B shall designate a single State agency to administer both the State's programs under titles IV–E and IV–B of the Act.

(b) The State plans for titles IV–E and IV–B shall both provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

(c) The State plans for titles IV–E and IV–B shall provide for compliance with the Department's regulations listed in § 1355.30.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

2. Part 1356 is amended by adding §§ 1356.10, 1356.20, 1356.21, 1356.30, 1356.40 and 1356.50 to read as follows:

§ 1356.10 Scope.

This regulation applies to State programs for foster care maintenance payments, adoption assistance payments and related administrative and training expenditures under title IV–E of the Act.

§ 1356.20 State plan document and submission requirements.

(a) To be in compliance with the State plan requirements and to be eligible to receive Federal financial participation (FFP) in the costs of foster care

maintenance payments and adoption assistance under this Part, a State shall have a State plan approved by the Secretary that meets the requirements of this section and section 471(a) of the Act. The title IV–E State plan shall be submitted to the appropriate Regional Program Director, ACYF, in a form determined by the State.

(b) If a State chooses to claim FFP for voluntary foster care placements, the State shall meet the requirements of paragraph (a) of this section and section 102 of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, as it amends section 472 of the Act.

(c) The procedures in 45 CFR 201.3, Approval of the State Plans and Amendments, shall apply to submission of title IV–E State plans with the following exceptions:

(1) Substitute "Commissioner, ACYF" for "Administrator", "Regional Program Director, ACYF" for "Regional Commissioner" or "Regional Medicaid Director" whenever they appear; and

(2) Substitute "45 days" wherever "90 days" appears.

(d) Once the title IV–E State plan has been submitted and approved, it shall remain in effect until amendments are required. An amendment is required if there is any significant and relevant change in the information or assurances in the plan, or the organization, policies or operations described in the plan.

§ 1356.21 Foster care maintenance payments program implementation requirements.

(a) To implement the foster care maintenance payments program provisions of the title IV–E State plan and to be eligible to receive Federal financial participation for foster care maintenance payments under this Part, a State shall meet the requirements of this section, and sections 472, 475(1), 475(4), 475(5), and 475(6) of the Act.

(b) In meeting the requirements of sections 475(1) and 475(5)(A) of the Act, the case plan for each child shall:

(1) Be developed within a reasonable period, to be established by the State, but in no event later than 60 days starting at the time the State agency, or local agency, assumes responsibility for providing services or placing the child; and

(2) Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interests and special needs of the child; and

(3) After October 1, 1983, include a description of the services offered or provided and the reasonable efforts made to help the child remain with his family or to return home.

(c) In meeting the requirements of section 471(a)(16), each State's case review system shall meet the requirements of sections 475(5)(B) and 475(6) of the Act and shall include the case plan required under paragraph (b) of this section. In meeting the case plan requirement of this paragraph, the State agency shall promulgate policy materials and instructions for use by State and local staff to determine the appropriateness of and necessity for the foster care placement of the child.

(d) In meeting the requirements of section 475(5)(C) of the Act, the dispositional hearing shall take place within 18 months of the date of the original foster care placement and within reasonable time periods thereafter, at intervals to be established by the State.

(e) In meeting the "reasonable efforts" requirements of § 1356.21(b)(3) and section 471(a)(15) of the Act, the State shall meet the requirements of sections 427(a)(2)(c) and 427(b)(3) of the Act.

(f) The specific foster care goals required under section 471(a)(14) of the Act shall be incorporated into State law by statute or administrative regulation provided such administrative regulation has the force of law.

(g) In meeting the requirements of section 471(a)(11) of the Act, the State shall periodically review, at intervals to be established by the State:

(1) The amount of the payment made for foster care maintenance and adoption assistance to assure their continued appropriateness; and

(2) The licensing or approval standards for child care institutions and foster family homes (including group homes).

§ 1356.30 Implementation requirements for children voluntarily placed in foster care.

(a) As a condition of receipt of Federal financial participation (FFP) in foster care maintenance payments for a dependent child removed from his home under a voluntary placement agreement, the State shall meet the requirements of section 472 of the Act (as amended by section 102(a) of Pub. L. 96–272) and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, and the requirements of this section.

(b) Federal financial participation is available only for foster care maintenance expenditures made within the first 180 days after the date of the original voluntary foster care placement unless there has been a judicial determination by a court of competent jurisdiction within the first 180 days of the date of that original placement to the effect that the continued voluntary placement is in the best interests of the child.

(c) The State agency shall establish and maintain a uniform procedure or system, consistent with State law, for revocation by the parent(s) of a voluntary placement agreement and return of the child.

§ 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.

(a) To implement the adoption assistance program provisions of the title IV–E State plan and to be eligible for Federal financial participation in adoption assistance payments under this Part, the State shall meet the requirements of this section and sections 471(a), 473 and 475 of the Act.

(b) The adoption assistance agreement shall meet the requirements of section 475(3) of the Act and shall:

(1) Be signed and in effect at the time of or prior to the interlocutory decree or at the time of or prior to the final decree of adoption. A copy of the signed agreement shall be given to each party; and

(2) Specify its duration; and

(3) Specify the amount of assistance and other services to be provided and, for purposes of eligibility under title XIX of the Act, specify that the child is eligible for medicaid services; and

(4) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement shall remain in effect if a family changes its State of residence.

(c) For purposes of implementing section 473 of the Act, *interlocutory decree* means a court order granting legal custody or guardianship to the adoptive petitioners prior to the final decree of adoption.

(d) There shall be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments.

(e) In the event an adoptive family moves from one State to another State, the family may apply for social services on behalf of the adoptive child in the new State of residence. However, for agreements entered into on or after October 1, 1983, if a needed service(s) specified in the adoption assistance agreement is not available in the new State of residence, the State making the original adoption assistance payment remains financially responsible for providing the specified service(s).

(f) A State may make an adoption assistance agreement with adopting parent(s) who reside in another State. If so, all provisions of this section shall apply.

(g) The State agency shall actively seek ways to promote the adoption assistance program.

§ 1356.50 Withholding of funds for non-compliance with the approved title IV-E State plan.

(a) To be in compliance with the title IV-E State plan requirements, a State shall meet the requirements of the Act and §§ 1356.20, 1356.21 and 1356.40 of this Part.

(b) To be in compliance with the title IV-E State plan requirements, a State that chooses to claim FFP for voluntary placements shall meet the requirements of the Act, § 1356.30 and paragraph (a) of this section; and

(c) For purposes of this section, the provisions of 45 CFR Part 213, Practice and Procedure for Hearings to States on Conformity of Public Assistance Plans to Federal Requirements, shall apply.

3. In Part 1356, § 1356.60 is amended by revising paragraph (a)(1) to read as follows:

§ 1356.60 Fiscal requirements (title IV-E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV-E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with sections 1356.20 through 1356.30 of this Part, section 472 of the Act and section 102(d) of Pub. L. 96-272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with §§ 1356.20, 1356.30(d) and 1356.40 of this Part and sections 473 and 475(3) of the Act.

* * * * *

PART 1357 REQUIREMENTS APPLICABLE TO TITLE IV-B

4. Part 1357 is amended by adding §§ 1357.10, 1357.15, 1357.20, 1357.25, and 1357.40 to read as follows:

§ 1357.10 Scope and definitions.

(a) *Scope*—This Part applies to State programs for child welfare services (including related administrative expenditures) under title IV-B of the Act.

(b) Child welfare services under title IV-B State plan shall be available on the basis of need for services and shall not be denied on the basis of financial need or legal residence.

(c) *Definitions*

Child Welfare Services means the definition contained in section 425(a)(1) of the Act, regardless of the funding source of such services.

Child Welfare Services Plan (CWSP) means the document developed through joint planning which describes the State agency's total child welfare services program, including services, program deficiencies, plans for program improvement and allocation of resources by type of service.

Joint Planning means State and Federal review and analysis of the State's child welfare services, including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of the State in providing child welfare services. (For purposes of § 1357.40, Direct Payments to Indian Tribal Organizations, substitute "Indian Tribal Organization" for "State" wherever State appears.)

§ 1357.15 Child welfare services State plan requirements and submittal.

(a) In order to be eligible for Federal financial participation (FFP) under this Part and title IV-B of the Act, a State shall have a Child Welfare Services State Plan (CWSP) which:

(1) Meets the requirements of sections 422(a) and (b) of the Act; and

(2) In meeting the requirements of section 422(b)(5) of the Act, the State plan shall contain a description of all child welfare services provided to children and their families in the State and specify by political subdivision the geographic areas where these services will be available.

(b) In implementing the requirements of this section and sections 427(a)(2)(C) and 427(b)(3) of the Act, the State shall specify, in its title IV-B State plan, which preplacement preventive and reunification services are available to children and families in need.

(1) The services specified may include: twenty-four hour emergency caretaker, and homemaker services; day care; crisis counseling; individual and family counseling; emergency shelters; procedures and arrangements for access to available emergency financial assistance; arrangements for the provision of temporary child care to provide respite to the family for a brief period, as part of a plan for preventing children's removal from home; other services which the agency identifies as necessary and appropriate such as home-based family services, self-help groups, provision of, or arrangements for, mental health, drug and alcohol abuse counseling, and vocational counseling or vocational rehabilitation.

(c) The State plan shall be written in a form determined by the State.

(d) The jointly developed State plan shall be submitted to the Regional Program Director (RPD), ACYF. The RPD will notify the State when the State plan meets all the requirements of the Act.

(e) A State shall indicate in the State plan document whether the plan will remain in effect for one, two or three fiscal years.

§ 1357.20 Child abuse and neglect programs.

The State agency shall assure that, with regard to any child abuse and neglect programs or projects funded under title IV-B of the Act, the requirements of paragraph (3) of section 4(b) of the Child Abuse Prevention and Treatment Act of 1974, as amended, 42 U.S.C. Sec. 5103(b)(3) (Pub. L. 93-247), are met.

§ 1357.25 Requirements for eligibility for additional payments.

(a) For any fiscal year after FY 1979 in which a sum in excess of $141,000,000 is appropriated under Section 420 of the Act, a State shall not be eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the State shall comply with the requirements of Section 427(a) of the Act; and

(b) In meeting the requirements of the inventory and statewide information system under section 427(a)(1) and (2)(A) of the Act, the inventory and statewide information system shall be required to include only those children under the care and responsibility of the State title IV-B, IV-E or IV-A(FC) agencies, and other agencies with which these agencies have agreements for provision of foster care.

(c) If, for each of any two consecutive fiscal years after FY 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $266,000,000, a State's allotment amount for any fiscal year after two such consecutive fiscal years shall be reduced to an amount equal to what the allotment amount would have been for FY 1979 unless the State has implemented the requirements of Section 427(b) of the Act.

§ 1357.40 Direct payments to Indian Tribal Organizations.

(a) *Who may apply for direct funding.* Any Indian tribal organization (ITO) that meet the definitions in section

428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them is eligible to apply for direct funding if:

(1) The Indian tribe (or tribes comprising the ITO) has contracted under the Indian Self-Determination Act to provide those child welfare services formerly provided by the Secretary of the Interior; and

(2) The Indian tribal organization, consortium or group has a plan for child welfare service that is jointly developed by the Indian tribal organization and the Secretary of HHS, or his designee.

(b) *Joint planning.* For purposes of this section, Joint Planning means ITO and Federal review and analysis of the ITO's child welfare services including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program impovement of goals and objectives to enhance the capability of the ITO in providing child welfare services.

(c) *Title IV–B plan requirements.* The Indian Tribal Organization's title IV–B plan shall meet all of the requirements of section 422(a) and 422(b) (2) through (8) of the Act. (For purposes provision, substitute "Indian tribe" for "State", "ITO" for "State (or local) agency," and "chief legal officer" for "Attorney General" wherever they appear) and shall include:

(1) The name of the ITO;

(2) A brief description of the ITO;

(3) A brief description of the legal and organizational relationship of the tribal organization to the Indians in the area to be served;

(4) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and placed for adoption;

(5) A description of tribal jurisdiction in civil and criminal matters, existence or nonexistence of a tribal court and the type of court and codes, if any;

(6) An identification of the standards for foster family homes and institutional care and day care;

(7) The ITO's political subdivisions, if any;

(8) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(9) Any limitations on authorities granted the ITO;

(10) The tribal resolution(s) authorizing it to apply for direct title IV–B grant under this Part;

(11) In the plan document, whether the plan is to remain in effect for one, two or three fiscal years.

(d) *Submittal of the title IV–B services plan and annual budget request.* (1) The ITO's title IV–B Annual Budget Request shall be submitted, in a form and manner prescribed by the Secretary, or his designee, to the appropriate Regional Program Director, ACYF.

(2) The title IV–B services plan shall be submitted to the appropriate Regional Program Director, ACYF, in a form, determined by the ITO, which meets all of the requirements of paragraph (c) of this section.

(3) Upon submission to the appropriate ACYF Regional office of a jointly developed plan, the ITO shall promptly notify the affected State(s)' title IV–B agency of the submission. For purposes of coordination, the ITO shall provide a copy of its plan to the State(s) upon request. The State IV–B agency shall provide a copy of its title IV–B State plan to the ITO upon request.

(e) *Coordination of services.* In meeting the requirements of section 422(b)(2) of the Act, the Indian tribal organization's plan shall assure coordination of services with other Federal, State or tribal programs to ensure maximum availability and utilization of resources that promote and enhance the welfare of children, youth and families served under title IV–B.

(f) *Requirements for eligibility for additional payments.* (1) For any fiscal year after fiscal year 1979 in which a sum in excess of $141,000,000 is appropriated under Section 420 of the Act, a tribe shall not be eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the Indian tribal organization has implemented the requirements of section 427(a) of the Act. Substitute "Indian tribe" for "State", "Indian tribal organization" for "State agency", and "tribal geographic area" for "Statewide" wherever these words occur in section 427(a) of the Act.

(2) If, for each of any two consecutive fiscal years after fiscal year 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $266,000,000, a tribe's allotment amount for any fiscal year after those two consecutive fiscal years shall be reduced to an amount equal to what the the allotment amount would have been for fiscal year 1979 unless the Indian tribal organization has implemented the requirements of section 427(b) of the Act. Substitute "Indian tribe" for "State" and "ITO" for "State agency", and "tribal geographic area" for "Statewide" wherever these words occur in section 427(b) of the Act.

(g) *Grants: General.* (1) Grants may be made to eligible Indian tribal organizations in a State which has a jointly developed Child Welfare Services Plan under title IV–B of the Act.

(2) Federal funds made available for a direct grant to an eligible ITO shall be paid by the Secretary, or his designee, from the title IV–B allotment for the State in which the ITO is located. Should a direct grant be approved, DHHS shall promptly notify the State(s) affected.

(3) If an eligible Indian tribal organization includes population from more than one State, a proportionate amount of the grant will be paid from each State's allotment.

(4) The receipt of title IV–B funds shall be in addition to and not a substitute for funds otherwise previously expended by the Indian tribal organization for child welfare services.

(5) The Indian tribal organization shall adhere to the requirements in § 1357.30. Substitute "Indian tribe" for "State", "Indian tribal organization" for "State agency," wherever they appear.

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN [REMOVED]

5. Chapter XIII is further amended by removing Part 1392 from subchapter J. Subchapter J is reserved as follows:

SUBCHAPTER J [RESERVED]

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620 et seq., 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

[FR Doc. 82–19131 Filed 7–14–82; 8:45 am]

BILLING CODE 4130–01–M

federal register

Thursday
July 15, 1982

Part IV

Department of Transportation

Federal Aviation Administration

Flightcrew Requirements for Part 91, Subpart D, Operations of Aircraft Certificated Under SFAR 41

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 21727; Amdt. No. 91-180]

Flightcrew Requirements for Part 91, Subpart D, Operations of Aircraft Certificated Under SFAR 41

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment permits operation of large airplanes certificated under Special Federal Aviation Regulation 41 with one pilot instead of two if the airplane is found safe for operation with one pilot, when operating under Subpart D of Part 91 of the Federal Aviation Regulations. This amendment relieves operators of an economic burden that does not have a commensurate safety benefit. Consequently, the relief afforded by this rule is fully consistent with the President's regulatory policies and Executive Order 12291. The rule change is in response to a petition for rulemaking submitted by the General Aviation Manufacturers Association (GAMA).

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Frank M. Jamison, Jr., Project Development Branch, General Aviation and Commercial Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8150.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

This amendment is based on Notice of Proposed Rulemaking No. 82-2 (47 FR 4092; January 28, 1982). All interested persons were given an opportunity to participate in the making of this amendment, and due consideration was given to all matters presented. This amendment and the reason for its adoption are the same as those stated in Notice 82-2.

Background of This Rulemaking Proceeding

Section 91.213(a)(1), as adopted by Amendment 91-101 (37 FR 14758; July 25, 1972), provides that no person may operate a large airplane without a pilot who is designated as second in command of that airplane.

Current airworthiness standards exist for two basic designation of airplanes: Part 23 for small (12,500 pounds or less) airplanes having nine or fewer passenger seats and Part 25 for transport category airplanes. Commuter airlines and air taxi operations in the United States, which have grown substantially in recent years, have demonstrated a need for airplanes which are not fully in the transport category but exceed the size limitations of Part 23. Certain small multiengine airplanes weighing under 12,500 pounds maximum certificated takeoff weight (MCTW) are so designed that they can be readily increased in size and maximum takeoff weight. Thus, they can fill the void between Part 23 and Part 25 airplanes.

Special Federal Aviation Regulation No. 41 (SFAR 41) was adopted on September 7, 1979, to allow certain Part 23 airplanes to be adapted to fill the void without requiring them to meet the standards of transport category airplanes. SFAR 41 allows the certification and operation, with appropriate restrictions and limitations, of small, propeller-driven multiengine airplanes at a maximum takeoff weight exceeding 12,500 pounds. The airplanes may also be configured with more than 10 passenger seats. It requires that the basic type of each airplane must have been originally type certificated in accordance with Part 23 prior to October 17, 1979.

The rules applicable to air taxi and commercial operators (Part 135), including commuter airlines, were amended to allow the operation of airplanes certificated under SFAR 41. Experience has indicated that since the adoption of SFAR 41, operations of these airplanes are routinely conducted under Part 91 in addition to Part 135.

Section 1(c) of SFAR 41 requires, in pertinent part, that an airplane certificated under paragraph (b) of section 1 is considered to be a small airplane for the purpose of Parts 21, 23, 36, 121, 135, and 139 and a large airplane for the purpose of Parts 61 and 91. The combined effect of SFAR 41 and § 91.213(a)(1) prohibited the operation under Part 91 of SFAR 41 airplanes with only one pilot when airplanes of the same basic design and configuration which have been certificated under Part 23 can be operated with one pilot. This has caused an apparent financial burden on Part 91 operators of airplanes certificated under SFAR 41.

Petition for Rulemaking by the General Aviation Manufacturers Association

On May 22, 1981, GAMA petitioned the FAA to amend the Federal Aviation Regulations to allow operation of certain airplanes certificated under SFAR 41 with one pilot. The petition states that this will reduce the burden on the public by allowing airplanes to operate with one pilot during certain flights if those airplanes have been found safe for operation with one pilot. This would include operations such as maintenance flight testing, relocation of airplanes, executive use, and demonstration flights, all of which may be conducted under Part 91. Two pilots would continue to be required for air taxi operations conducted under Part 135 when airplanes with 10 or more passenger seats are used. The petitioner points out that the requirement for two pilots to be used for all operations imposes an economic burden without a commensurate safety benefit.

On January 6, 1982, the FAA issued a notice of proposed rulemaking (Notice 82-2) in response to GAMA's petition. The notice proposed to amend § 91.213(a)(1) to allow an airplane certificated under SFAR 41 to be operated without a second-in-command pilot if the airplane is certificated for operation with one pilot. The notice was published in the **Federal Register** on January 28, 1982. The closing date for comments was March 29, 1982.

Discussion of Comments

The FAA received 15 public comments in response to Notice 82-2; 11 commenters fully support the proposal; 2 commenters support the proposal with reservations; and 2 commenters oppose the proposal.

Eight commenters state, in essence, that the rule change will relieve operators of an undue economic burden in the conduct of nonrevenue operations of the aircraft in question without compromising safety.

Comments from two prominent aviation-oriented organizations support the proposal but with reservations. One of these organizations recommends that an additional paragraph be added to make it clear that the operating rules in effect for a particular flight shall dictate the minimum required crew complement for that flight. This commenter states that such a caveat is necessary for avoiding any misconception that may develop as the result of a misinterpretation of the intent of § 91.213(a)(1), by alerting the operator that single-pilot operation is not authorized on the basis of type certificate data alone. The FAA appreciates the concern that motivated this recommendation; it would be inappropriate, however, to incorporate the caveat in § 91.213 as it would be redundant. This is because it is only when an aircraft is being operated under Subpart D of Part 91 that the rules contained therein apply. The applicability rules in § 91.181(a)

explicitly state that the operating rules of Subpart D do not apply to airplanes when they are required to be operated under Part 121, 123, 125, 129, 135, or 137 of the Federal Aviation Regulations.

An airline pilot's union supports the proposed rule but with certain restrictions, that is, limit single pilot operations to visual flight rules (VFR) conditions and to only when no passengers are being carried. This commenter contends that "carriage of additional persons, unless they were operationally required, could easily constitute an unnecessary and unwarranted distraction to the pilot and must not be allowed." Adoption of either of these recommendations would impose limitations, the stringency of which could not be justified. The FAA considers the pilot workload in SFAR 41 airplanes affected by this amendment to be no more demanding than that in many makes and models of airplanes certificated under Part 23 to which Subpart D of Part 91 does not apply.

Two commenters, the aviation coordinator of an institution of higher learning and a private individual, oppose the proposed rule change. The former commenter argues that in the interest of safety, no large airplanes (having an MCTW of more than 12,500 pounds) should be excepted from the requirements for a second-in-command pilot. The FAA does not agree that all airplanes with an MCTW of more than 12,500 pounds are necessarily more demanding than airplanes weighing less. The latter commenter gives reasons why he considers two specific makes and models of airplanes certificated under SFAR 41 should require two pilots at all times. The commenter provides no documentation to support his position. This commenter also states that he believes one of the models carries 15 passengers which "appears to me to be too many people for a one-pilot operation." This comment, in effect, implies objection to operations of certain airplanes that were certificated under Part 23 that are capable of carrying 15 passengers with only one pilot. The record indicates, however, that such aircraft are being operated safely with one pilot.

Description of the Amendment

As proposed in Notice 82–2, the FAA is amending Part 91 to allow certain SFAR 41 airplanes to be operated under Part 91 with one pilot. This is accomplished by amending § 91.213(a)(1) to exclude SFAR 41 airplanes from the requirement that all large airplanes must operate with a second in command. That section currently requires two pilots for all large airplanes, that is, those airplanes weighing over 12,500 pounds MCTW. Maintenance and pilot certification requirements of Part 91 operations will remain unchanged.

Under the amendment, the determination that single-pilot operation can be safely permitted will have to be made a part of the certification basis for the airplane if not already established. The approval, if granted, will appear in the type certificate data for the appropriate make and model airplane. However, the operating rules in effect for a particular flight will still dictate the minimum required crew complement for that flight.

This amendment provides an acceptable level of safety for affected operations while imposing the least amount of regulatory control consistent with maintaining flight safety. The amendment will reduce a burden on aircraft operators by eliminating the cost of a second pilot without compromising safety. Since the benefits outweigh the costs, this amendment is consistent with Executive Order 12291, signed by the President on February 17, 1981. As a result, the FAA is amending § 91.213(a)(1) to allow SFAR 41 airplanes to be operated without a pilot who is designated as second in command.

This amendment responds to an industry petition for relief from a current regulation. No formal benefit-cost analysis was completed with respect to the amendment. A regulatory evaluation was conducted for this action to assess the cost and economic impact. The FAA has determined that there are no apparent direct or indirect (nonindustry) costs associated with granting the petition. The FAA agrees with GAMA's statements as to benefits. Therefore, it is apparent that benefits outweigh any costs associated with changing the present regulation.

Index

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots.

Adoption of the Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, § 91.213(a)(1) of the Federal Aviation Regulations (14 CFR 91.213(a)(1)) is amended as follows:

§ 91.213 Second-in-command requirements.

(a) * * *

(1) A large airplane, except that a person may operate an airplane certificated under SFAR 41 without a pilot who is designated as second in command if that airplane is certificated for operation with one pilot.

* * * * *

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1424), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this amendment relaxes requirements and allows more flexibility to affected operators since it permits operation of certain SFAR 41 aircraft with one pilot instead of two if the airplane is found safe for operation with one pilot. For these operations, operators have a cost saving and no increased economic burden. There are no apparent direct or indirect (nonindustry) costs associated with the amendment. Therefore, it has been determined that this is not a major regulation under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11043; February 26, 1979). This amendment allows operators of SFAR 41 aircraft, some of whom are small entities, to minimally reduce costs by operating aircraft under certain conditions with one pilot instead of two. Therefore, I certify that under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation prepared for this amendment may be obtained by contacting the person identified under the caption FOR FURTHER INFORMATION CONTACT.

Issued in Washington, D.C., on June 11, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82–19182 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–13–M

federal register

Thursday
July 15, 1982

Part V

Department of Health and Human Services

Public Health Service

Revision of Health Service Area Boundaries; Interim Regulation

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 122

Revision of Health Service Area Boundaries; Interim Regulation

AGENCY: Public Health Service, HHS.

ACTION: Interim regulation.

SUMMARY: This notice sets forth interim rules establishing criteria, procedures and requirements for the revision of existing health service area boundaries under section 1511(b)(4) of the Public Health Service Act, as amended by the Health Planning and Resources Development Amendments of 1979, Pub. L. 96–79. Interested persons are invited to submit written comments and suggestions concerning these interim rules.

EFFECTIVE DATE: These regulations are effective on July 15, 1982. to be considered comments must be received on or before September 13, 1982.

ADDRESS: Interested persons may submit written comments on these interim regulations to: William R. Berry, Acting Director, Bureau of Health Planning, 3700 East-West Highway, Room 6–22, Hyattsville, Maryland 20782. The comments will be available for public inspection at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charlotte Pascoe, Chief, Agency Management Branch, Division of Planning Assistance and Assessment, Bureau of Health Planning, 3700 East-West Highway, Room 6–27, Hyattsville, Maryland 20782 (301) 436–6720.

SUPPLEMENTARY INFORMATION: Title XV of the Public Health Service Act ("the Act") established a national system for State and local health planning. The Act authorizes financial assistance for the implementation of the national health planning program. The initial step in accomplishing these goals was the establishment of health service areas throughout the country to facilitate effective planning on an areawide level (section 1511 of the Act). Following the establishment of these areas, the Secretary was authorized to enter into agreements with eligible entities for their designation as health systems agencies for the designated health service areas.

The initial designation of health service areas for the Nation was accomplished with publication of a **Federal Register** notice on September 2, 1975. Since September 1975, five revisions of health service area boundaries have occurred under the authority of section 1511(b)(4) of the Act.[1]

Before the enactment of the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79), section 1511(b)(4) required the Secretary to review on a continuing basis and at the request of Governors or health systems agencies, the appropriateness of the boundaries of health service areas. It authorized the secretary to revise the boundaries only if the established health service area no longer met the requirements of the statute (at section 1511(a)). Reviews and revisions of health service area boundaries under this authority have been conducted in accordance with the Guidelines for the Redesignation of Health Service Areas, published in the **Federal Register** on September 16, 1976, 41 FR 39432–4 (the "1976 Guidelines").

Pub. L. 96–79 revised section 1511(b)(4) in two major ways: first, it deleted the requirement that the Secretary review the appropriateness of health service areas on a continuing basis. The Act now authorizes the Secretary to review the appropriateness of health service area boundaries at his own initiative. The Secretary must still make this review at the request of any Governor or health systems agency. Second, and more importantly, the amendments authorize the revision of health service area boundaries *either* if the area no longer meets statutory requirements *or* if a new area would meet these requirements "in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts". The effect of the latter amendment is to permit more discretion on the part of the Department in determining whether boundaries may be revised. Previously, the fact that a new area might be substantially superior for the effective conduct of health planning was an insufficient basis for revision unless the Secretary could also conclude that the original area *no longer met* the requirements of section 1511(a).

In addition to the above changes, section 1511(b)(4) was also amended to specify that for each proposed revision of the boundaries of a health service area, the Secretary must give notice and the opportunity for a hearing to all interested persons. Furthermore, section 1511(b)(4) no longer requires consultation with agencies funded under section 314(a) and (b) of the Act, and regional medical programs established under Title IX of the Act, since these agencies are no longer in existence.

Finally, section 104(b) of Pub. L. 96–79 requires the secretary to issue regulations setting forth criteria for the revision of health service area boundaries under section 1511(b)(4).

Changing circumstances since the passage of Public Law 96–79 will result in an increased number of proposed health service area redesignations. The Administration has recommended that Federal funding of health planning be decreased and ultimately terminated. The Administration's proposal calls for this phase out to be completed by Fiscal Year 1983. Under the present continuing resolution, Congress has authorized $37.7 million for local health planning. Due to these budget constraints, we expect to receive redesignation requests from Governors to consolidate health service areas, thereby conserving scarce resources. Additionally, the Department expects that the Federal designation and funding of some HSAs will be terminated in the next several months. In the conference report accompanying the Omnibus Budget Reconciliation Act of 1981, Congress recognized that the amount of funding authorized for local health planning would be insufficient to sustain all the statutory obligations placed on HSAs, and further, expressed the view that the Secretary should not continue the designation agreement of an HSA in an area where funding would be inadequate to support an effective HSA. As HSAs phase out due to reduced Federal funding over the next several months, the Department may wish to redesignate uncovered health service areas into existing HSAs.

Finally, the Omnibus Budget Reconciliation Act amended section 1536 of the Public Health Service Act to provide that, upon the request of any Governor accompanied by his certification that his State is willing and able to carry out the purposes of Title XV without HSAs in the State, HSAs and health service areas in that State will be eliminated. In the case of an interstate area partially located in such a State, the effect of a section 1536 election by a Governor will be to strip away the portion of the area falling within the section 1536 State. The remaining portion of such an interstate area—i.e., the portion outside the section 1536 State—may or may not be appropriate under the criteria of section 1511(a) to stand alone as a separate health service area. It may be that the section 1511(a) criteria can best be met

[1] See the following **Federal Register** notices: December 13, 1976, pp. 54228–9, Vol. 41, No. 240 and correction notice on December 17, 1976, p. 55242, Vol. 42, No. 133; April 11, 1977, p. 18904, Vol. 42, No. 69; June 30, 1977, p. 33381, Vol. 42, No. 126; July 14, 1978, pp. 30354–5, Vol. 43, No. 136; and July 18, 1978, pp. 30898–9, Vol. 43, No. 138.

by consolidating the truncated portion with an adjoining health service area in the non-section 1536 State, or by otherwise adjusting health service area boundaries to accommodate the new situation. In any case, the original interstate health service area as designated pursuant to section 1511(a) will have ceased to exist, and new area boundaries will need to be drawn in accordance with section 1511(b)(4) if the non-section 1536 portion of the area is to continue to be served by an HSA.

These regulations establish the procedures and criteria for the review and revision of the boundaries of health service areas under the amended section 1511(b)(4), and are based on three main considerations. First, the Secretary has concluded that because the statutory requirements for health service areas (at section 1511(a) of the Act) were not changed by the 1979 Amendments, sections D and E of the 1976 Guidelines, which were based on those requirements, should continue to be used as the basis for determining whether an area should be revised because it no longer meets statutory requirements. These redesignation guidelines were derived from the health service area designation guidelines used to establish the existing health service area boundaries, and Sections D and E are appended to this regulation. Some of the factors to be considered under Sections D and E include (1) whether or not the existing area is appropriate for health planning; (2) whether the existing area contains at least one specialty center; (3) whether the area meets the population requirements of section 1511(a)(3); (4) whether health service areas are appropriately coordinated with areas designated for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas; (5) whether the area as established recognizes the difference in needs of metropolitan and nonmetropolitan areas and takes into account any economic or geographic barrier to the receipt of services in nonmetropolitan areas; and (6) whether each relevant Standard Metropolitan Statistical Area is contained within a single health service area.

Second, the Secretary is also using Sections D and E to determine if a new area would meet the statutory requirements in a significantly more appropriate manner, because (1) the guidelines already contain criteria suitable for that purpose, and (2) the development of new criteria would be unnecessarily disruptive during this period of transition in the Federal health planning program.

Sections D and E of the 1976 Guidelines establish specific considerations for determining whether a health service area meets the statutory requirements of section 1511(a). It is the obligation of the Governor or health systems agency requesting a revision of a health service area boundary to provide evidence based on these considerations that the proposed health service area will meet the statutory requirements in a significantly more appropriate manner. The Secretary will then make a determination based on this application and will notify the applicant of the decision and the reasoning behind it.

Similarly, when the Secretary proposes to revise a health service area upon his own initiative, the Secretary will apply the considerations to determine the extent to which a different health service area would meet the statutory requirements of section 1511(a) in a significantly more appropriate manner than the existing one.

By necessity, this approach provides the Secretary with considerable latitude, since the wide variety of health service areas in the country preclude a rigid, checklist approach to such a determination.

There are no cost implications as a result of these rules, since they primarily confirm by regulation criteria for revision of health service area boundaries which have been used for a number of years. The actual procedures for review and revision of health service area boundaries are, for the most part, taken directly from the statute, and impose no regulatory burden. Therefore, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities, and a Regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) is not required. Further, since these regulations do not meet any criteria for a major regulation under Executive Order 12291, a regulatory impact analysis is not required.

It is estimated that there will be a limited number of requests for revision of health service area boundaries since under the Administration's proposal the time frame for Federal funding of HSAs is only through FY 82. Although we expect more redesignation requests than in previous years (there have been five revisions since 1975), it is still anticipated that there will be fewer than 10 requests. For this reason, OMB clearance of the reporting requirements at § 122.704 of the regulations is not required.

The Secretary has determined that for this regulation a Notice of Proposed Rulemaking would be unnecessary, impractical and contrary to the public interest, and that good cause therefore exists for making these regulations effective on the date of publication in the **Federal Register.** With lower levels of Federal funding for HSAs in FY 1983 there is an urgent need for final area redesignation regulations to be in place so that health service areas can be consolidated, thereby enabling agencies to conserve scarce resources, and ensuring that areas in which HSAs' designation and funding have been terminated will not be left uncovered. In addition, the regulations, are taken directly from (1) amended section 1511(b)(4) of the Act; and (2) the 1976 Guidelines. The Guidelines, although not subject to public comment at the time of their adoption in 1976, have been operational for a number of years and have not been controversial. We also note that the adoption of interim final regulations does not preclude the public from submitting comments. Although the regulations are issued in final form and are effective immediately, the Department can take action to amend the regulations if comments are received which warrant revisions.

List of Subjects in 42 CFR Part 122

Health planning, Health care.

Accordingly, a new Subpart H is added to Part 122 of Title 42 of the Code of Federal Regulations, as set forth below.

Dated: May 21, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 25, 1982.

Richard S. Schweiker,

Secretary.

PART 122—HEALTH SYSTEMS AGENCIES

* * * * *

Subpart H—Revision of Health Service Area Boundaries

Sec.

122.701 Purpose.
122.702 General.
122.703 Initiation of review.
122.704 Request.
122.705 Criteria.
122.706 Notification.
Appendix—Sections D and E of the Area Redesignation Guidelines.

Authority: Sec. 215 of the PHS Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216);

sec. 1511(b) of PHS Act, 88 Stat. 2229 (42 U.S.C. 300–1(b)(4)).

Subpart H—Revision of Health Service Area Boundaries

§ 122.701 Purpose.

Section 1511 of the Public Health Service Act requires the Secretary to establish health service areas throughout the United States. Section 1511(b)(4) directs the Secretary to review the appropriateness of these area boundaries upon his own initiative or at the request of a Governor or a health systems agency and under certain circumstances, to revise those boundaries. The purpose of these regulations is to set forth the procedures and criteria which apply to the revision of health service area boundaries under section 1511(b)(4) of the Public Health Service Act.

§ 122.702 General.

Any health service area boundary may be revised if, following the review of the appropriateness of that area boundary, the Secretary determines that (1) the boundary no longer meets the requirements of section 1511(a) of the Act, or (2) the proposed revised boundary would meet the requirements of that section in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts. In making this determination, the Secretary will follow the procedures under § 122.706 and apply the criteria under § 122.705.

§ 122.703 Initiation of Review.

An area boundary may be revised by the Secretary upon the Secretary's own initiative or at the request of a Governor or health systems agency whose respective State or health service area is affected by the proposed revision.

§ 122.704 Request.

(a) Any Governor or agency requesting revision of a health service area boundary must consult with the following individuals and entities and must submit to the Secretary with the request written evidence of these consultations, together with any comments received from these individuals and entities:

(1) The Governor(s) of the State(s) and the Statewide Health Coordinating Council(s) (SHCC(s)) which would be affected by the revision;

(2) The chief executive officer or agency of each political subdivision within the State(s) or area which would be affected by the revision;

(3) The health systems agency(s) which would be affected by the revision.

(b) In addition, any request made under this paragraph must also include:

(1) A description of the proposed new area boundaries and a discussion of the reasons supporting the proposal;

(2) A description of the effect of the proposed revision on area population, the State and local health planning structure (particularly, the effect on agency governing body composition and funding), and on the relationship between the proposed revised area boundaries and areas for substate planning and development districts under OMB Circular A–95; and

(3) Evidence satisfactory to the Secretary that either of the requirements of § 122.702 is satisfied. This evidence must at least include a description of the advantages and disadvantages of the proposed revision, with particular emphasis upon whether the proposed revision would in any way disrupt the State or local health planning activities.

§ 122.705 Criteria.

In determining whether either of the requirements of § 122.702 is satisfied, the Secretary will apply Sections D and E of the area redesignation guidelines (41 FR 39433, September 15, 1976), which are set forth in Appendix A of these regulations.

§ 122.706 Revisions.

Following the application of the criteria set forth in Appendix A, the Secretary will determine whether to revise an area boundary. Provided that—

(a) In the case of a review initiated by the Secretary, no boundary may be revised unless the Secretary has consulted with the individuals and entities listed in § 122.704(a);

(b) In the case of any proposed revision, the Secretary will publish a notice of the proposed revision and give any interested person an opportunity for a hearing.

(c) No revision which would comprise an entire State will be made without the prior consent of the Governor of that State.

§ 122.707 Notification.

Written notification of the Secretary's decision under § 122.706 will be provided to the Governor, the SHCC and the HSA affected by the revision. In addition, the Secretary will publish this decision in the **Federal Register.**

Appendix A—Health Service Area Redesignation—Sections D and E

(Published in the **Federal Register** on September 15, 1976 (41 FR 39433–4))

D. Redesignation Statutory Requirements

There are six substantive requirements enumerated in section 1511 of the Public Health Service Act that health service areas must meet.

1. With respect to population, section 1511(a)(3) of the Act requires:

"The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

"(A) The population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

"(B) The population of an area may—

"(i) Be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

"(ii) Be less than—

"(I) Five hundred thousand (but no less than two hundred thousand) in unusual circumstances (as determined by the Secretary),

"(II) Two hundred thousand in highly unusual circumstances (as determined by the Secretary),

"If the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection."

This specific minimum-maximum population requirement was adopted from the House bill (H.R. 16204) by the Conferees. With respect to it, the House Committee Report (No. 93–1382, p. 52) stated that "The 500,000 people minimum reflects the experience that effective health planning can be conducted only with an adequate base of population and health resources to sustain a planning process."

While waivers of the minimum 500,000 population requirement may be allowed, the Committee noted in its Report that it did not intend that "waivers in either 'unusual' or 'highly unusual' circumstances be used frequently."

As regards waivers, it should be noted that a request to establish a single, Statewide health service area in a State with a population of less than 500,000 does not require a waiver, nor does the designation of a proposed area encompassing an SMSA with a population in excess of 3 million require one.

With respect to the latter, a designated health service area which includes an SMSA over 3 million may include territory in addition to the SMSA itself. On the other hand, while several SMSAs may be included in the same health service area, indeed frequently should be, the combined populations in the area may not exceed 3 million (unless one of the SMSAs has a population over 3 million).

The latest available annual population estimate from the Department of Commerce, which is available for all States and counties nationally, must be used in computing populations for purposes of area redesignation.

2. As regards SMSAs, section 1511(a) of the Act requires that—

"Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area than such statistical area shall not be required to be entirely within the boundaries of such health service area."

The House Committee Report (p. 53) states that "While health service areas should generally be larger than standard metropolitan statistical areas, the Committee has recognized SMSAs as useful delineations of our major metropolitan areas and feels very strongly that health service areas should not divide the SMSAs. Since SMSAs often cross State boundaries because metropolitan areas often do, the Committee intends that when a major metropolitan area straddles a State boundary its service area will also cross the State boundary. While provision is made for waiving this requirement with the approval of the Secretary, it is anticipated that the waiver will be granted rarely * * *." As regards this requirement, unless the Governor of each of the two or more States in which an SMSA is located requests that it be waived, the Secretary will not entertain the waiver request to split the SMSA.

3. Insofar as the geography of the area is concerned, section 1511(a)(1) requires that—

"The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area."

A number of factors or considerations are relevant to this general requirement. They include but are not necessarily limited to the following:

a. Time, distance, and cost factors in relation to health care services and facilities within a region that in effect constitute significant economic and/or geographic barriers to obtaining care.

b. Functional economic areas (as defined by the Bureau of Economic Analysis, U.S. Department of Commerce).

c. State boundaries (except in the case of inter-State SMSAs) and those of local political subdivisions. Many funding and other decisions of State and local general-purpose governments are highly relevant to health planning, resource development, and regulatory activities. Moreover, such governments frequently provide services and operate facilities as well as pay for care.

d. Health services utilization and referral patterns.

e. Special population characteristics that have a distinct area dimension (e.g., Indians residing on reservations or other land areas held in trust).

f. Involvement of major prepayment plans (e.g., Blue Cross) and health maintenance organizations (HMOs).

The area, moreover, should have health facilities, manpower, and other resources adequate to provide its residents with a comprehensive range of primary and secondary health care services. It is not required, nor necessarily desirable that all highly specialized tertiary care services (e.g., burn care, cardiac surgery, kidney transplantation) be available within the area itself, though.

4. As regards nonmetropolitan areas, section 1511(a) of the Act requires—

"The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between nonmetropolitan and metropolitan areas."

This requirement reflects Congressional concern that nonmetropolitan areas be assured fair and equitable treatment in both the designation and redesignation of areas. It has the effect of moderating the requirements relative to population of and the range of health services and facilities in nonmetropolitan areas. The floor debate in the House in this connection is particularly relevant. For example, it was noted by Representative Alexander that health service areas in nonmetropolitan regions with "a limited range of tertiary services could properly be established with one of their health resource development objectives being increasing the range of tertiary services offered * * *" and Representative Roy observed that "While the Committee is serious about the use of 500,000 as the minimum population for health service areas, it is well within reason that the exception provided for in (the Act) * * * be applied when necessary to overcome travel time, geographic and/or economic barriers to receipt of health services in nonmetropolitan areas."

For purposes of this requirement, "nonmetropolitan areas" are defined as those areas lying outside SMSAs, and "metropolitan areas" as those within SMSAs. (By this definition about 30 percent of the U.S. population resided in nonmetropolitan areas, with 70 percent living in metropolitan areas in 1970.)

5. With respect to specialty centers, section 1511(a) states that—

"To the extent practicable, the area shall include at least one center for the provision of highly specialized health services."

The House Committee Report (p. 52) noted that this requirement "reflects the desire that the health service areas provide a self-contained, comprehensive and complete range of health services such that an individual residing in the area would rarely if ever have to leave it in order to obtain needed medical care."

The presence of a medical school, university health science center, and/or affiliated teaching, or other hospital(s) offering specialized services for patients with cancer, heart disease, kidney disease, and stroke, and the like, generally would be considered to satisfy this requirement. As noted above, however, it is not required that each area necessarily have available all of the highly specialized and more sophisticated services (e.g., major burn and trauma center). Moreover, it is recognized that some areas will not include a medical school and/or major teaching hospital. The following are among the considerations or factors to be taken into account in those instances:

a. The number and range of residency programs offered by the hospitals in the area.

b. The distances separating major medical centers and/or other highly specialized facilities. If these are great, requiring considerable travel time and cost, this would be a mitigating factor.

c. The existence of long-standing well-established referral patterns or formalized linkages with one or more major medical centers outside the area.

6. Insofar as the boundaries of other areas are concerned, section 1511(a)(4) states that—

"To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1152 of the Social Security Act for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas."

Since it is recognized that the boundaries of areas defined for different purposes cannot all be identical, the criteria for both designation and redesignation of health service areas do not require that the boundaries be identical with those for PSRO areas, regional planning areas, or State planning administrative areas.

In order to insure close coordination between the health service areas and local health systems agencies being established by this legislation and other State, regional and local health and health-related planning and administrative areas and agencies, it is important that the former—

a. Be congruent insofar as possible with one or several State planning and development districts as defined for purposes of OMB Circular A-95.

b. In the case of PSROs, to the extent practicable, (a) either a single health service area encompasses one or more PSRO areas in their entirety, or (b) several health service areas collectively encompass a single PSRO area.

c. Generally not divide locally established, functioning, and recognized COG areas (i.e., the jurisdictional areas of councils of government, regional planning agencies or development districts).

d. Follow the boundaries of local political subdivisions of general-purpose governments (e.g., counties, incorporated cities, parishes in Louisiana, townships in New England).

E. Waivers

The Act does provide that (1) the minimum 500,000 population requirement and/or (2) the requirement that an SMSA not be divided or split, may be waived for specific health service areas with the approval of the Secretary.

All waiver requests will be reviewed and assessed as to whether or not they meet the

other requirements specified, particularly that which requires that the area "be a geographic region appropriate for the effective planning and development of health services * * *"

Therefore, requested waivers for areas with populations of less than 500,000, but more than 200,000 will be reviewed in terms of the following more specific factors:

1. Geography, including the size of the area, its natural isolation, and any major geographical barriers.

2. Population, including the extent to which it deviates from the 500,000 minimum, rate of growth in recent years, and/or low density.

3. Whether it essentially is a functional economic area (as defined by the U.S. Department of Commerce).

4. How well the area is linked to (or separated from) other areas by transportation and communication networks.

5. Whether there is a comprehensive range of primary and secondary health services within the area to meet the needs of its residents.

6. Extent to which the area is consistent with other official districts and State and county boundaries.

7. Evidence that the area has previously demonstrated a health planning capacity and community base of financial support.

8. Whether the comments of local governments, providers, the general population and others contain evidence that the area indeed is one appropriate for the effective planning and development of health services.

Requested waivers for areas with populations of less than 200,000 will be reviewed in terms of the factors enumerated above and must, in addition, meet one or more of the following criteria:

1. Have an area of 10,000 square miles or more with an average population density of less than 10 persons per square mile.

2. Be congruent with a functional economic area. (One of the functional characteristics of those areas is, that they combine labor market and labor supply, the place of work and the place of residence of the labor force. Each of the areas approaches self-sufficiency with regard to resident industries which include general and convenience retail and wholesale trade activities.)

3. By virtue of its geography and natural or physical barriers, be significantly isolated from other areas.

Waiver requests proposing an area that would split or divide an SMSA will be reviewed against the following more specific factors as well as the other requirements set forth in the Act:

1. In the case of inter-State SMSAs, the degree to which their populations are overwhelmingly in one State with only a small fraction in the other State (or States).

2. In the case of inter-State SMSAs, whether the health service area proposed is a single, statewide area for a State that otherwise might have to request a waiver to the minimum population requirement.

3. Whether the comments of local governments, providers, the general population and others contain evidence that the area indeed is one appropriate for the effective planning and development of health services.

[FR Doc. 82-19234 Filed 7-14-82; 8:45 am]

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federal register

Thursday
July 15, 1982

Part VI

Department of Transportation

Federal Aviation Administration

Petitions for Exemption; Summary and Disposition and Correction

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Document published in Volume 47 FR, July 13, 1982 on page No. 30347 in connection with Muse Air Petition was published with an incorrect comment date ("July 23, 1982"). The correct date for comments should be "July 19, 1982."

DATE: Comments on the Muse Air Petition must identify the petition docket number involved and must be received on or before: July 19, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 23188, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 13, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23188	Muse Air Corporation	SFAR 44-4	To request an exemption from SFAR 44-4 to allow them to continue to utilize 4 Braniff slots at Tulsa, 3 at Midland/Odessa and 8 at Dallas which were granted to Muse under the emergency allocation of Braniff slots. Petitioner states that the request is in the public interest and is necessary for the survival of Muse Air.

[FR Doc. 82-19274 Filed 7-14-82; 8:45 am]

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[Summary Notice No. PE-82-12]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

Note.—This document originally appeared in the **Federal Register** for Tuesday, July 13, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

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

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before July 23, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23188	Muse Air Corporation	SFAR 44-4	To request an exemption from SFAR 44-4 to allow them to continue to utilize 4 Braniff slots at Tulsa, 3 at Midland/Odessa and 8 at Dallas which were granted to Muse under the emergency allocation of Braniff slots. Petitioner states that the request is in the public interest and is necessary for the survival of Muse Air.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought

None this period.

[FR Doc. 82-19053 Filed 7-12-82; 10:22 am]

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Reader Aids

Federal Register

Vol. 47, No. 136

Thursday, July 15, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

28605-28894.....1
28895-29206.....2
29207-29512.....6
29513-29640.....7
29641-29816.....8
29817-30046.....9
30047-30228.....12
30229-30448.....13
30449-30698.....14
30699-30958.....15

CFR PARTS AFFECTED DURING JULY

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

302.....30701
305.....30701
310.....30701
Proposed Rules:
456.....30790

3 CFR

Administrative Orders
Memorandums:
July 12, 1982.....30699
Proclamations:
4707 (Amended by EO 12371).....30449
4950.....28895
4951.....28897
4952.....29641
Executive Orders:
11888 (Amended by EO 12371).....30449
12354 (Amended by EO 12371).....30449
12369.....28899
12370.....30047
12371.....30449

5 CFR

213.....28901
315.....28905
316.....28905
531.....30229
950.....29496, 29643, 29817
1201.....28906
Proposed Rules:
550.....28962
551.....28962
1204.....28964
1205.....28964

7 CFR

1.....30451
2.....29817
6.....30049
60.....29643
210.....28909
301.....28909, 29207
724.....28911
725.....28912
726.....28912
908.....28605, 29817, 30715
910.....28913, 29818
911.....29646, 29647
915.....29647
916.....30451
917.....30451
925.....28914
1427.....28605
1464.....28606
1942.....29819
1955.....30230
Proposed Rules:
54.....30079
101.....28965
210.....28966
945.....29683
958.....30257
982.....30258
967.....30792
1011.....30080
1030.....29247
1046.....30080
1048.....30080
1207.....28680

8 CFR

212.....30044
235.....30044
238.....28608
Proposed Rules:
214.....29851

9 CFR

82.....29648
92.....30230
312.....29821
317.....29513
381.....29513, 29821
Proposed Rules:
113.....30259
114.....30081
201.....29852
203.....29852
307.....28966
327.....29685
381.....28966

10 CFR

19.....30452
30.....30452
40.....30452
50.....30232, 30452, 30459
60.....30452
70.....30452
72.....30452
150.....30452
317.....30716
500.....29209
503.....29209
710.....30717
Proposed Rules:
50.....29252
430.....30793

12 CFR

5.....29823
207.....30719
217.....30460
220.....30719
221.....30719
224.....30719
615.....28608
701.....30460, 30462
745.....30464

Proposed Rules:
220.....29253
303.....29554
304.....29554
347.....29554
561.....29558
563.....29558
703.....30497

13 CFR
125.....29211

14 CFR
39.....28609-28612, 29212, 29649, 30049-30051, 30720
71.....28613-28614, 29213-29219, 29649-29651, 30052
91.....29219, 29814, 30946
97.....30721
223.....30236
385.....29223

Proposed Rules:
Ch. I.....29688, 30793
21.....30794
39.....29253, 29255
67.....30795
71.....28680, 29255-29259, 29689-29692
121.....29782
253.....28681
262.....28683

15 CFR
30.....29828

16 CFR
13.....30237, 30238, 30723
305.....30465
460.....29830

Proposed Rules:
Ch. I.....29462
801.....29182, 30261
802.....29182, 30261
803.....29182, 30261
1017.....29562

17 CFR
5.....29515
200.....30460
210.....29832
229.....29832
230.....29651, 29832
231.....29832
239.....29832
240.....29651, 29832
249.....29832
275.....29652
279.....29652

Proposed Rules:
1.....30261, 30498
3.....30498
4.....30498
15.....30498
16.....30498
18.....30498
21.....30498
32.....30498
33.....30498
145.....30498
147.....30498
155.....30498
170.....30498
180.....30498
210.....28684
229.....28684
230.....28688
231.....28684
239.....28688
240.....28684, 28688, 29259
241.....28684
249.....29259

18 CFR
157.....30724
281.....30467, 30725
284.....30724
375.....30724

Proposed Rules:
154.....28966
157.....28966
271.....29265, 29569, 29852
375.....28966
381.....28966

20 CFR
404.....30468, 30731
416.....30468
619.....30238

21 CFR
172.....29946
178.....30239-30241
182.....29946, 29952, 29953
184.....29946, 29952
186.....29953
193.....29523, 30477
436.....30241
440.....30241
442.....30241
444.....30241
446.....30241
510.....30241
520.....30242
546.....29843
556.....30242
558.....28914, 28915, 29844, 30241, 30244, 30246
561.....30478, 30479

Proposed Rules:
182.....29956-29965
184.....29956
333.....29986
341.....30002
344.....30012
452.....30266
888.....29052

22 CFR
2.....30480

23 CFR
772.....29653

24 CFR
200.....29523
202a.....30750
203.....29524, 30750
204.....29524, 30750
209.....30750
211.....30750
213.....29524
220.....29524
221.....29524, 30750
228.....30750
234.....29524
235.....29524, 30750
570.....30053

Proposed Rules:
201.....28967

25 CFR
249.....30755

26 CFR
1.....28915
32.....29224

Proposed Rules:
1.....29692, 30796
31.....28695, 29266

29 CFR
5.....28916, 29845
1952.....28614, 28917
2200.....29525
2619.....30757

Proposed Rules:
1404.....29569
1910.....30420

30 CFR
211.....29845
221.....29845
231.....29845
250.....29845, 30055
270.....29845

Proposed Rules:
Ch. VII.....29693, 30267
75.....30025
251.....28706
700.....28706, 30266
701.....28706, 30266
715.....30266
717.....30266
736.....30266, 30797
740.....28706
741.....28706
742.....28706
743.....28706
744.....28706
745.....28706
746.....28706
760.....30266, 30797
761.....30797
762.....30266, 30797
764.....30797
765.....30797
769.....30266, 30979
770.....30266
771.....30266
772.....30266
773.....30266
775.....30266
776.....30266
778.....30266
779.....30266
780.....30266
782.....30266
783.....30266
784.....30266
785.....30266
786.....30266
787.....30266
788.....30266
815.....30266
816.....30266
817.....30266
818.....30266
819.....30266
822.....30266
823.....30266
824.....30266
826.....30266
827.....30266
843.....30266
850.....30266
904.....30267
912.....30214
915.....29570
945.....29571
948.....29852

31 CFR
535.....29528

32 CFR
706.....30758, 30759

33 CFR
Ch. I.....28615
100.....28615, 28616
110.....29658
127.....29659
128.....29659
165.....29659
204.....30057

Proposed Rules:
117.....30176

34 CFR
Proposed Rules:
5b.....30498

36 CFR
211.....30246
261.....29229

37 CFR
201.....29529

38 CFR
3.....29530
17.....29668
21.....30247
36.....29230

Proposed Rules:
21.....29267, 29269, 30269
36.....29270

39 CFR
10.....30760
233.....28918

Proposed Rules:
111.....29273

40 CFR
33.....29668
52.....28617, 28623, 29231, 29233, 29531-29539, 29668, 30057-30060, 30761, 30762
60.....28624, 30061-30065, 30480
61.....30061-30065
62.....29234
81.....28626, 29540, 30065, 30762
85.....30481
120.....29541
123.....29236
180.....28626, 30485-30489
264.....28627, 30446
265.....28627, 30446

Proposed Rules:
52.....28967, 29273, 29572, 29573, 30798
60.....30799
81.....28968, 29573

122.....29274, 30799
123.....30498, 30799
124.....30799
180.....29573-29576
264.....29274
704.....30081
712.....29853
720.....28969
761.....30082, 30083, 30270

41 CFR

Ch. 101.....30248
5-2.....28627
5-3.....28918
5-16.....28647
5A-2.....28627
5A-3.....28918
5A-16.....28647
5A-71.....28650
5A-72.....28650
5A-74.....28650
5A-76.....28650
5B-2.....28627
5B-3.....28918
5B-4.....28627
5B-16.....28647
9-5.....28924
9-7.....28924
9-23.....28924
9-50.....28924

42 CFR

122.....28650, 30950
431.....28652
435.....28652, 30764
436.....28652

Proposed Rules:

433.....29275

43 CFR

17.....29542
19.....30489

Proposed Rules:

3100.....30499
3140.....28971

Public Land Orders:

1168 (Revoked in part by PLO 6290).....28656
1344 (Revoked in part by PLO 6290).....28656
1429 (Revoked in part by PLO 6290).....28656
1744 (Revoked in part by PLO 6290).....28656
2165 (Revoked in part by PLO 6290).....28656
2285 (Revoked in part by PLO 6290).....28656
2354 (Revoked by PLO 6293).....29846
2965 (Revoked in part by PLO 6290).....28656
3072 (Revoked in part by PLO 6290).....28656
6290.....28656
6291.....28656
6292.....29553
6293.....29846

44 CFR

64.....28931-28936, 30249, 30253
65.....28657, 30251, 30490, 30491
67.....28937-28958, 30493, 30764, 30772
70.....28657-28659

Proposed Rules:

67.....28661-28676, 29854 30500-30526

45 CFR

16.....29472
74.....29472
96.....29472
1355.....30922
1356.....30922
1357.....30922
1392.....30922

Proposed Rules:

1355.....30932
1356.....30932
1357.....30932
1392.....30932

46 CFR

Ch. I.....28707-28715
1.....28676
10.....28677
12.....28677
187.....28677
528.....30255
536.....29670
537.....30255

Proposed Rules:

502.....29278
503.....29280
522.....29278
531.....29278
536.....29278
540.....29278
542.....29280
543.....29280
544.....29280

47 CFR

2.....28960, 30066
21.....29237
73.....29245, 29846-29850, 30066, 30069, 30495
74.....30066, 30495
76.....30495
78.....30495
83.....28960
87.....28960
97.....29673

Proposed Rules:

Ch. I.....29282
73.....29286-29291, 29854-29859, 30527

49 CFR

1.....30781
5.....29678
173.....29678
178.....29678
571.....30077
1033.....29679
1036.....29246
1063.....30077

Proposed Rules:

Ch. I.....30799
172.....28716
173.....28716
175.....28716, 30800
177.....28716
178.....28716
571.....30083, 30084
575.....30084

50 CFR

13.....30782
16.....30782
17.....30440, 30782
23.....30787
640.....29202
661.....30078, 30788

Proposed Rules:

17.....30528
20.....30162
661.....28971
681.....30270

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing July 7, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6451 / Pub. L. 97–214 Military Construction Codification Act. (July 12, 1982; 96 Stat. 153) Price: $3.25.

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